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all others. Each time the resulting stimulation to business has so increased taxable incomes and profits that a surplus has been produced. One-third of the national debt has been paid, while much of the other two-thirds has been refunded at lower rates, and these savings of interest and constant economies have enabled us to repeat the satisfying process of more tax reductions. Under this sound and healthful encouragement the national income has increased nearly 50 per cent, until it is estimated to stand well over \$90,000,000,000. It has been a method which has performed the seeming miracle of leaving a much greater percentage of earnings in the hands of the taxpayers with scarcely any diminution of the Government revenue. That is constructive economy in the highest degree. It is the corner stone of prosperity. It should not fail to be continued.

This action began by the application of economy to public expenditure. If it is to be permanent, it must be made so by the repeated application of economy. There is no surplus on which to base further tax revision at this time. Last June the estimates showed a threatened deficit for the current fiscal year of \$94,000,000. Under my direction the departments began saving all they could out of their present appropriations. The last tax reduction brought an encouraging improvement in business, beginning early in October, which will also increase our revenue. The combination of economy and good times now indicates a surplus of about \$37,000,000. This is a margin of less than 1 per cent on our expenditures and makes it obvious that the Treasury is in no condition to undertake increases in expenditures to be made before June 30. It is necessary therefore during the present session to refrain from new appropriations for immediate outlay, or if such are absolutely required to provide for them by new revenue; otherwise, we shall reach the end of the year with the unthinkable result of an unbalanced budget. For the first time during my term of office we face that contingency. I am certain that the Congress would not pass and I should not feel warranted in approving legislation which would involve us in that financial disgrace.

On the whole the finances of the Government are most satisfactory. Last year the national debt was reduced about \$906,000,000. The refunding and retirement of the second and third Liberty loans have just been brought to a successful conclusion, which will save about \$75,000,000 a year in interest. The unpaid balance has been arranged in maturities convenient for carrying out our permanent debt-paying program.

The enormous savings made have not been at the expense of any legitimate public need. The Government plant has been kept up and many improvements are under way, while its service is fully manned

and the general efficiency of operation has increased. We have been enabled to undertake many new enterprises. Among these are the adjusted compensation of the veterans of the World War, which is costing us \$112,000,000 a year; amortizing our liability to the civil-service retirement funds, \$20,000,000; increase of expenditures for rivers and harbors including flood control, \$43,000,000; public buildings, \$47,000,000. In 1928 we spent \$50,000,000 in the adjustment of war claims and alien property. These are examples of a large list of items.

FOREIGN RELATIONS

When we turn from our domestic affairs to our foreign relations, we likewise perceive peace and progress. The Sixth International Conference of American States was held at Habana last winter. It contributed to a better understanding and cooperation among the nations. Eleven important conventions were signed and 71 resolutions passed. Pursuant to the plan then adopted, this Government has invited the other 20 nations of this hemisphere to a conference on conciliation and arbitration, which meets in Washington on December 10. All the nations have accepted and the expectation is justified that important progress will be made in methods for resolving international differences by means of arbitration.

During the year we have signed 11 new arbitration treaties, and 22 more are under negotiation.

NICARAGUA

When a destructive and bloody revolution lately broke out in Nicaragua, at the earnest and repeated entreaties of its Government I dispatched our Marine forces there to protect the lives and interests of our citizens. To compose the contending parties, I sent there Col. Henry L. Stimson, former Secretary of War and now Governor General of the Philippine Islands, who secured an agreement that warfare should cease, a national election should be held and peace should be restored. Both parties conscientiously carried out this agreement, with the exception of a few bandits who later mostly surrendered or left the country. President Diaz appointed Brig. Gen. Frank R. McCoy, United States Army, president of the election board, which included also one member of each political party.

A free and fair election has been held and has worked out so successfully that both parties have joined in requesting like cooperation from this country at the election four years hence, to which I have refrained from making any commitments, although our country must be gratified at such an exhibition of success and appreciation. Nicaragua is regaining its prosperity and has taken a long step in the direction of peaceful self-government.

TACNA-ARICA

The long-standing differences between Chile and Peru have been sufficiently composed so that diplomatic relations have been resumed by the exchange of ambassadors. Negotiations are hopefully proceeding as this is written for the final adjustment of the differences over their disputed territory.

MEXICO

Our relations with Mexico are on a more satisfactory basis than at any time since their revolution. Many misunderstandings have been resolved and the most frank and friendly negotiations promise a final adjustment of all unsettled questions. It is exceedingly gratifying that Ambassador Morrow has been able to bring our two neighboring countries, which have so many interests in common, to a position of confidence in each other and of respect for mutual sovereign rights.

CHINA

The situation in China which a few months ago was so threatening as to call for the dispatch of a large additional force has been much composed. The Nationalist Government has established itself over the country and promulgated a new organic law announcing a program intended to promote the political and economic welfare of the people. We have recognized this Government, encouraged its progress, and have negotiated a treaty restoring to China complete tariff autonomy and guaranteeing our citizens against discriminations. Our trade in that quarter is increasing and our forces are being reduced.

GREEK AND AUSTRIAN DEBTS

Pending before the Congress is a recommendation for the settlement of the Greek debt and the Austrian debt. Both of these are comparatively small and our country can afford to be generous. The rehabilitation of these countries awaits their settlement. There would also be advantages to our trade. We could scarcely afford to be the only nation that refuses the relief which Austria seeks. The Congress has already granted Austria a long-time moratorium, which it is understood will be waived and immediate payments begun on her debt on the same basis which we have extended to other countries.

PEACE TREATY

One of the most important treaties ever laid before the Senate of the United States will be that which the 15 nations recently signed at Paris, and to which 44 other nations have declared their intention

to adhere, renouncing war as a national policy and agreeing to resort only to peaceful means for the adjustment of international differences. It is the most solemn declaration against war, the most positive adherence to peace, that it is possible for sovereign nations to make. It does not supersede our inalienable sovereign right and duty of national defense or undertake to commit us before the event to any mode of action which the Congress might decide to be wise if ever the treaty should be broken. But it is a new standard in the world around which can rally the informed and enlightened opinion of nations to prevent their governments from being forced into hostile action by the temporary outbreak of international animosities. The observance of this covenant, so simple and so straightforward, promises more for the peace of the world than any other agreement ever negotiated among the nations.

NATIONAL DEFENSE

The first duty of our Government to its own citizens and foreigners within its borders is the preservation of order. Unless and until that duty is met a government is not even eligible for recognition among the family of nations. The advancement of world civilization likewise is dependent upon that order among the people of different countries which we term peace. To insure our citizens against the infringement of their legal rights at home and abroad, to preserve order, liberty, and peace by making the law supreme, we have an Army and a Navy.

Both of these are organized for defensive purposes. Our Army could not be much reduced, but does not need to be increased. Such new housing and repairs as are necessary are under way and the 5-year program in aviation is being put into effect in both branches of our service.

Our Navy, according to generally accepted standards, is deficient in cruisers. We have 10 comparatively new vessels, 22 that are old, and 8 to be built. It is evident that renewals and replacements must be provided. This matter was thoroughly canvassed at the last session of the Congress and does not need restatement. The bill before the Senate with the elimination of the time clause should be passed. We have no intention of competing with any other country. This building program is for necessary replacements and to meet our needs for defense.

The cost of national defense is stupendous. It has increased \$118,000,000 in the past four years. The estimated expenditure for 1930 is \$668,000,000. While this is made up of many items it is, after all, mostly dependent upon numbers. Our defensive needs do not call

for any increase in the number of men in the Army or the Navy. We have reached the limit of what we ought to expend for that purpose.

I wish to repeat again for the benefit of the timid and the suspicious that this country is neither militaristic nor imperialistic. Many people at home and abroad, who constantly make this charge, are the same ones who are even more solicitous to have us extend assistance to foreign countries. When such assistance is granted, the inevitable result is that we have foreign interests. For us to refuse the customary support and protection of such interests would be in derogation of the sovereignty of this Nation. Our largest foreign interests are in the British Empire, France, and Italy. Because we are constantly solicitous for those interests, I doubt if anyone would suppose that those countries feel we harbor toward them any militaristic or imperialistic design. As for smaller countries, we certainly do not want any of them. We are more anxious than they are to have their sovereignty respected. Our entire influence is in behalf of their independence. Cuba stands as a witness to our adherence to this principle.

The position of this Government relative to the limitation of armaments, the results already secured, and the developments up to the present time are so well known to the Congress that they do not require any restatement.

VETERANS

The magnitude of our present system of veterans' relief is without precedent, and the results have been far-reaching. For years a service pension has been granted to the Grand Army and lately to the survivors of the Spanish-American War. At the time we entered the World War, however, Congress departed from the usual pension system followed by our Government. Eleven years have elapsed since our laws were first enacted, initiating a system of compensation, rehabilitation, hospitalization, and insurance for the disabled of the World War and their dependents. The administration of all the laws concerning relief has been a difficult task, but it can safely be stated that these measures have omitted nothing in their desire to deal generously and humanely. We should continue to foster this system and provide all the facilities necessary for adequate care. It is the conception of our Government that the pension roll is an honor roll. It should include all those who are justly entitled to its benefits, but exclude all others.

Annual expenditures for all forms of veterans' relief now approximate \$765,000,000, and are increasing from year to year. It is doubtful if the peak of expenditures will be reached even under present legislation for some time yet to come. Further amendments to the

existing law will be suggested by the American Legion, the Veterans of Foreign Wars of the United States, the Disabled American Veterans of the World War, and other like organizations, and it may be necessary for administrative purposes, or in order to remove some existing inequalities in the present law, to make further changes. I am sure that such recommendations as may be submitted to the Congress will receive your careful consideration. But because of the vast expenditure now being made each year, with every assurance that it will increase, and because of the great liberality of the existing law, the proposal of any additional legislation dealing with this subject should receive most searching scrutiny from the Congress.

You are familiar with the suggestion that the various public agencies now dealing with matters of veterans' relief be consolidated in one Government department. Some advantages to this plan seem apparent, especially in the simplification of administration and in the opportunity of bringing about a greater uniformity in the application of veterans' relief. I recommend that a survey be made by the proper committees of Congress dealing with this subject, in order to determine whether legislation to secure this consolidation is desirable.

AGRICULTURE

The past year has been marked by notable though not uniform improvement in agriculture. The general purchasing power of farm products and the volume of production have advanced. This means not only further progress in overcoming the price disparity into which agriculture was plunged in 1920-21, but also increased efficiency on the part of farmers and a well-grounded confidence in the future of agriculture.

The livestock industry has attained the best balance for many years and is prospering conspicuously. Dairymen, beef producers, and poultrymen are receiving substantially larger returns than last year. Cotton, although lower in price than at this time last year, was produced in greater volume, and the prospect for cotton incomes is favorable. But progress is never uniform in a vast and highly diversified agriculture or industry. Cash grains, hay, tobacco, and potatoes will bring somewhat smaller returns this year than last. Present indications are, however, that the gross farm income will be somewhat larger than in the crop year 1927-28, when the total was \$12,253,000,000. The corresponding figure for 1926-27 was \$12,127,000,000, and in 1925-26, \$12,670,000,000. Still better results would have been secured this year had there not been an undue increase in the production of certain crops. This is particularly true of potatoes, which have sold at an unremunerative price, or at a loss, as a direct result of over-expansion of acreage.

The present status of agriculture, although greatly improved over that of a few years ago, bespeaks the need of further improvement, which calls for determined effort of farmers themselves, encouraged and assisted by wise public policy. The Government has been, and must continue to be, alive to the needs of agriculture.

In the past eight years more constructive legislation of direct benefit to agriculture has been adopted than during any other period. The Department of Agriculture has been broadened and reorganized to insure greater efficiency. The department is laying greater stress on the economic and business phases of agriculture. It is lending every possible assistance to cooperative marketing associations. Regulatory and research work have been segregated in order that each field may be served more effectively.

I can not too strongly commend, in the field of fact finding, the research work of the Department of Agriculture and the State experiment stations. The department now receives annually \$4,000,000 more for research than in 1921. In addition, the funds paid to the States for experimentation purposes under the Purnell Act constitute an annual increase in Federal payments to State agricultural experiment stations of \$2,400,000 over the amount appropriated in 1921. The program of support for research may wisely be continued and expanded. Since 1921 we have appropriated nearly an additional \$2,000,000 for extension work, and this sum is to be increased next year under authorization by the Capper-Ketcham Act.

THE SURPLUS PROBLEM

While these developments in fundamental research, regulation, and dissemination of agricultural information are of distinct help to agriculture, additional effort is needed. The surplus problem demands attention. As emphasized in my last message, the Government should assume no responsibility in normal times for crop surplus clearly due to overextended acreage. The Government should, however, provide reliable information as a guide to private effort; and in this connection fundamental research on prospective supply and demand, as a guide to production and marketing, should be encouraged. Expenditure of public funds to bring in more new land should have most searching scrutiny, so long as our farmers face unsatisfactory prices for crops and livestock produced on land already under cultivation.

Every proper effort should be made to put land to uses for which it is adapted. The reforestation of land best suited for timber production is progressing and should be encouraged, and to this end the forest taxation inquiry was instituted to afford a practical guide for public policy. Improvement has been made in grazing regulation in the forest reserves, not only to protect the ranges, but to preserve the

soil from erosion. Similar action is urgently needed to protect other public lands which are now overgrazed and rapidly eroding.

Temporary expedients, though sometimes capable of appeasing the demands of the moment, can not permanently solve the surplus problem and might seriously aggravate it. Hence putting the Government directly into business, subsidies, and price fixing, and the alluring promises of political action as a substitute for private initiative, should be avoided.

The Government should aid in promoting orderly marketing and in handling surpluses clearly due to weather and seasonal conditions. As a beginning there should be created a Federal farm board consisting of able and experienced men empowered to advise producers' associations in establishing central agencies or stabilization corporations to handle surpluses, to seek more economical means of merchandising, and to aid the producer in securing returns according to the quality of his product. A revolving loan fund should be provided for the necessary financing until these agencies shall have developed means of financing their operations through regularly constituted credit institutions. Such a bill should carry authority for raising the money, by loans or otherwise, necessary to meet the expense, as the Treasury has no surplus.

Agriculture has lagged behind industry in achieving that unity of effort which modern economic life demands. The cooperative movement, which is gradually building the needed organization, is in harmony with public interest and therefore merits public encouragement.

THE RESPONSIBILITY OF THE STATES

Important phases of public policy related to agriculture lie within the sphere of the States. While successive reductions in Federal taxes have relieved most farmers of direct taxes to the National Government, State and local levies have become a serious burden. This problem needs immediate and thorough study with a view to correction at the earliest possible moment. It will have to be made largely by the States themselves.

COMMERCE

It is desirable that the Government continue its helpful attitude toward American business. The activities of the Department of Commerce have contributed largely to the present satisfactory position in our international trade, which has reached about \$9,000,000,000 annually. There should be no slackening of effort in that direction. It is also important that the department's assistance to domestic commerce be continued. There is probably no way in which the Government can aid sound economic progress more effectively than by cooperating with our business men to reduce wastes in distribution.

COMMERCIAL AERONAUTICS

Continued progress in civil aviation is most gratifying. Demands for airplanes and motors have taxed both the industry and the licensing and inspection service of the Department of Commerce to their capacity. While the compulsory licensing provisions of the air commerce act apply only to equipment and personnel engaged in interstate and foreign commerce, a Federal license may be procured by anyone possessing the necessary qualifications. State legislation, local airport regulations, and insurance requirements make such a license practically indispensable. This results in uniformity of regulation and increased safety in operation, which are essential to aeronautical development. Over 17,000 young men and women have now applied for Federal air-pilot's licenses or permits. More than 80 per cent of them applied during the past year.

Our national airway system exceeds 14,000 miles in length and has 7,500 miles lighted for night operations. Provision has been made for lighting 4,000 miles more during the current fiscal year and equipping an equal mileage with radio facilities. Three-quarters of our people are now served by these routes. With the rapid growth of air mail, express, and passenger service, this new transportation medium is daily becoming a more important factor in commerce. It is noteworthy that this development has taken place without governmental subsidies. Commercial passenger flights operating on schedule have reached 13,000 miles per day.

During the next fortnight this Nation will entertain the nations of the world in a celebration of the twenty-fifth anniversary of the first successful airplane flight. The credit for this epoch-making achievement belongs to a citizen of our own country, Orville Wright.

CUBAN PARCEL POST

I desire to repeat my recommendation of an earlier message, that Congress enact the legislation necessary to make permanent the Parcel Post Convention with Cuba, both as a facility to American commerce and as a measure of equity to Cuba in the one class of goods which that country can send here by parcel post without detriment to our own trade.

"MAINE" BATTLESHIP MEMORIAL

When I attended the Pan American Conference at Habana, the President of Cuba showed me a marble statue made from the original memorial that was overturned by a storm after it was erected on the Cuban shore to the memory of the men who perished in the destruction of the battleship *Maine*. As a testimony of friendship

and appreciation of the Cuban Government and people he most generously offered to present this to the United States, and I assured him of my pleasure in accepting it. There is no location in the White House for placing so large and heavy a structure, and I therefore urge the Congress to provide by law for some locality where it can be set up.

RAILROADS

In previous annual messages I have suggested the enactment of laws to promote railroad consolidation with the view of increasing the efficiency of transportation and lessening its cost to the public. While consolidations can and should be made under the present law until it is changed, yet the provisions of the act of 1920 have not been found fully adequate to meet the needs of other methods of consolidation. Amendments designed to remedy these defects have been considered at length by the respective committees of Congress and a bill was reported out late in the last session which I understand has the approval in principle of the Interstate Commerce Commission. It is to be hoped that this legislation may be enacted at an early date.

Experience has shown that the interstate commerce law requires definition and clarification in several other respects, some of which have been pointed out by the Interstate Commerce Commission in its annual reports to the Congress. It will promote the public interest to have the Congress give early consideration to the recommendations there made.

MERCHANT MARINE

The cost of maintaining the United States Government merchant fleet has been steadily reduced. We have established American flag lines in foreign trade where they had never before existed as a means of promoting commerce and as a naval auxiliary. There have been sold to private American capital for operation within the past few years 14 of these lines, which, under the encouragement of the recent legislation passed by the Congress, give promise of continued successful operation. Additional legislation from time to time may be necessary to promote future advancement under private control.

Through the cooperation of the Post Office Department and the Shipping Board long-term contracts are being made with American steamship lines for carrying mail, which already promise the construction of 15 to 20 new vessels and the gradual reestablishment of the American merchant marine as a private enterprise. No action of the National Government has been so beneficial to our shipping. The cost is being absorbed to a considerable extent by the disposal of unprofitable lines operated by the Shipping Board, for which the new

law has made a market. Meanwhile it should be our policy to maintain necessary strategic lines under the Government operation until they can be transferred to private capital.

INTER-AMERICAN HIGHWAY

In my message last year I expressed the view that we should lend our encouragement for more good roads to all the principal points on this hemisphere south of the Rio Grande. My view has not changed. The Pan American Union has recently indorsed it. In some of the countries to the south a great deal of progress is being made in road building. In others engineering features are often exacting and financing difficult. As those countries enter upon programs for road building we should be ready to contribute from our abundant experience to make their task easier of accomplishment. I prefer not to go into civil life to accomplish this end. We already furnish military and naval advisors, and following this precedent we could draw competent men from these same sources and from the Department of Agriculture.

We should provide our southern neighbors, if they request it, with such engineer advisors for the construction of roads and bridges. Private interests should look with favor upon all reasonable loans sought by these countries to open main lines of travel. Such assistance should be given especially to any project for a highway designed to connect all the countries on this hemisphere and thus facilitate intercourse and closer relations among them.

AIR MAIL SERVICE

The friendly relations and the extensive commercial intercourse with the Western Hemisphere to the south of us are being further cemented by the establishment and extension of air-mail routes. We shall soon have one from Key West, Fla., over Cuba, Haiti, and Santo Domingo to San Juan, P. R., where it will connect with another route to Trinidad. There will be another route from Key West to the Canal Zone, where connection will be made with a route across the northern coast of South America to Paramaribo. This will give us a circle around the Caribbean under our own control. Additional connections will be made at Colon with a route running down the west coast of South America as far as Concepcion, Chile, and with the French air mail at Paramaribo running down the eastern coast of South America. The air service already spans our continent, with laterals running to Mexico and Canada, and covering a daily flight of over 28,000 miles, with an average cargo of 15,000 pounds.

WATERWAYS

Our river and harbor improvements are proceeding with vigor. In the past few years we have increased the appropriation for this regular work \$28,000,000, besides what is to be expended on flood control. The total appropriation for this year was over \$91,000,000. The Ohio River is almost ready for opening; work on the Missouri and other rivers is under way. In accordance with the Mississippi flood law Army engineers are making investigations and surveys on other streams throughout the country with a view to flood control, navigation, waterpower, and irrigation. Our barge lines are being operated under generous appropriations, and negotiations are developing relative to the St. Lawrence waterway. To secure the largest benefits from all these waterways joint rates must be established with the railroads, preferably by agreement, but otherwise as a result of congressional action.

We have recently passed several river and harbor bills. The work ordered by the Congress, not yet completed, will cost about \$243,000,000, besides the hundreds of millions to be spent on the Mississippi flood way. Until we can see our way out of this expense no further river and harbor legislation should be passed, as expenditures to put it into effect would be four or five years away.

IRRIGATION OF ARID LANDS

For many years the Federal Government has been committed to the wise policy of reclamation and irrigation. While it has met with some failures due to unwise selection of projects and lack of thorough soil surveys, so that they could not be placed on a sound business basis, on the whole the service has been of such incalculable benefit in so many States that no one would advocate its abandonment. The program to which we are already committed, providing for the construction of new projects authorized by Congress and the completion of old projects, will tax the resources of the reclamation fund over a period of years. The high cost of improving and equipping farms adds to the difficulty of securing settlers for vacant farms on Federal projects.

Readjustments authorized by the reclamation relief act of May 25, 1926, have given more favorable terms of repayment to settlers. These new financial arrangements and the general prosperity on irrigation projects have resulted in increased collections by the Department of the Interior of charges due the reclamation fund. Nevertheless, the demand for still smaller yearly payments on some projects continues. These conditions should have consideration in connection with any proposed new projects.

COLORADO RIVER

For several years the Congress has considered the erection of a dam on the Colorado River for flood-control, irrigation, and domestic water purposes, all of which may properly be considered as Government functions. There would be an incidental creation of water power which could be used for generating electricity. As private enterprise can very well fill this field, there is no need for the Government to go into it. It is unfortunate that the States interested in this water have been unable to agree among themselves. Nevertheless, any legislation should give every possible safeguard to the present and prospective rights of each of them.

The Congress will have before it the detailed report of a special board appointed to consider the engineering and economic feasibility of this project. From the short summary which I have seen of it, I judge they consider the engineering problems can be met at somewhat increased cost over previous estimates. They prefer the Black Canyon site. On the economic features they are not so clear and appear to base their conclusions on many conditions which can not be established with certainty. So far as I can judge, however, from the summary, their conclusions appear sufficiently favorable, so that I feel warranted in recommending a measure which will protect the rights of the States, discharge the necessary Government functions, and leave the electrical field to private enterprise.

MUSCLE SHOALS

The development of other methods of producing nitrates will probably render this plant less important for that purpose than formerly. But we have it, and I am told it still provides a practical method of making nitrates for national defense and farm fertilizers. By dividing the property into its two component parts of power and nitrate plants it would be possible to dispose of the power, reserving the right to any concern that wished to make nitrates to use any power that might be needed for that purpose. Such a disposition of the power plant can be made that will return in rental about \$2,000,000 per year. If the Congress would grant the Secretary of War authority to lease the nitrate plant on such terms as would insure the largest production of nitrates, the entire property could begin to function. Such a division, I am aware, has never seemed to appeal to the Congress. I should also gladly approve a bill granting authority to lease the entire property for the production of nitrates.

I wish to avoid building another dam at public expense. Future operators should provide for that themselves. But if they were to be required to repay the cost of such dam with the prevailing commercial rates for interest, this difficulty will be considerably lessened.

Nor do I think this property should be made a vehicle for putting the United States Government indiscriminately into the private and retail field of power distribution and nitrate sales.

CONSERVATION

The practical application of economy to the resources of the country calls for conservation. This does not mean that every resource should not be developed to its full degree, but it means that none of them should be wasted. We have a conservation board working on our oil problem. This is of the utmost importance to the future well-being of our people in this age of oil-burning engines and the general application of gasoline to transportation. The Secretary of the Interior should not be compelled to lease oil lands of the Osage Indians when the market is depressed and the future supply is in jeopardy.

While the area of lands remaining in public ownership is small, compared with the vast area in private ownership, the natural resources of those in public ownership are of immense present and future value. This is particularly true as to minerals and water power. The proper bureaus have been classifying these resources to the end that they may be conserved. Appropriate estimates are being submitted, in the Budget, for the further prosecution of this important work.

IMMIGRATION

The policy of restrictive immigration should be maintained. Authority should be granted the Secretary of Labor to give immediate preference to learned professions and experts essential to new industries. The reuniting of families should be expedited. Our immigration and naturalization laws might well be codified.

WAGE EARNER

In its economic life our country has rejected the long accepted law of a limitation of the wage fund, which led to pessimism and despair because it was the doctrine of perpetual poverty, and has substituted for it the American conception that the only limit to profits and wages is production, which is the doctrine of optimism and hope because it leads to prosperity. Here and there the councils of labor are still darkened by the theory that only by limiting individual production can there be any assurance of permanent employment for increasing numbers, but in general, management and wage earner alike have become emancipated from this doom and have entered a new era in industrial thought which has unleashed the productive capacity of the individual worker with an increasing

scale of wages and profits, the end of which is not yet. The application of this theory accounts for our widening distribution of wealth. No discovery ever did more to increase the happiness and prosperity of the people.

Since 1922 increasing production has increased wages in general 12.9 per cent, while in certain selected trades they have run as high as 34.9 per cent and 38 per cent. Even in the boot and shoe shops the increase is over 5 per cent and in woolen mills 8.4 per cent, although these industries have not prospered like others. As the rise in living costs in this period is negligible, these figures represent real wage increases.

The cause of constructive economy requires that the Government should cooperate with private interests to eliminate the waste arising from industrial accidents. This item, with all that has been done to reduce it, still reaches enormous proportions with great suffering to the workman and great loss to the country.

WOMEN AND CHILDREN

The Federal Government should continue its solicitous care for the 8,500,000 women wage earners and its efforts in behalf of public health, which is reducing infant mortality and improving the bodily and mental condition of our citizens.

CIVIL SERVICE

The most marked change made in the civil service of the Government in the past eight years relates to the increase in salaries. The Board of Actuaries on the retirement act shows by its report that July 1, 1921, the average salary of the 330,047 employees subject to the act was \$1,307, while on June 30, 1927, the average salary of the corresponding 405,263 was \$1,969. This was an increase in six years of nearly 53 per cent. On top of this was the generous increase made at the last session of the Congress generally applicable to Federal employees and another bill increasing the pay in certain branches of the Postal Service beyond the large increase which was made three years ago. This raised the average level from \$1,969 to \$2,092, making an increase in seven years of over 63 per cent. While it is well known that in the upper brackets the pay in the Federal service is much smaller than in private employment, in the lower brackets, ranging well up over \$3,000, it is much higher. It is higher not only in actual money paid, but in privileges granted, a vacation of 30 actual working days, or 5 weeks each year, with additional time running in some departments as high as 30 days for sick leave and the generous provisions of the retirement act. No other body of public servants ever occupied such a fortunate position.

EDUCATION

Through the Bureau of Education of the Department of the Interior the Federal Government, acting in an informative and advisory capacity, has rendered valuable service. While this province belongs peculiarly to the States, yet the promotion of education and efficiency in educational methods is a general responsibility of the Federal Government. A survey of negro colleges and universities in the United States has just been completed by the Bureau of Education through funds provided by the institutions themselves and through private sources. The present status of negro higher education was determined and recommendations were made for its advancement. This was one of the numerous cooperative undertakings of the bureau. Following the invitation of the Association of Land Grant Colleges and Universities, the Bureau of Education now has under way the survey of agricultural colleges, authorized by Congress. The purpose of the survey is to ascertain the accomplishments, the status, and the future objectives of this type of educational training. It is now proposed to undertake a survey of secondary schools, which educators insist is timely and essential.

PUBLIC BUILDINGS

We have laid out a public building program for the District of Columbia and the country at large running into hundreds of millions of dollars. Three important structures and one annex are already under way and one addition has been completed in the City of Washington. In the country sites have been acquired, many buildings are in course of construction, and some are already completed. Plans for all this work are being prepared in order that it may be carried forward as rapidly as possible. This is the greatest building program ever assumed by this Nation. It contemplates structures of utility and of beauty. When it reaches completion the people will be well served and the Federal city will be supplied with the most beautiful and stately public buildings which adorn any capital in the world.

THE AMERICAN INDIAN

The administration of Indian affairs has been receiving intensive study for several years. The Department of the Interior has been able to provide better supervision of health, education, and industrial advancement of this native race through additional funds provided by the Congress. The present cooperative arrangement existing between the Bureau of Indian Affairs and the Public Health Service should be extended. The Government's responsibility to the American Indian has been acknowledged by annual increases in appropria-

tions to fulfill its obligations to them and to hasten the time when Federal supervision of their affairs may be properly and safely terminated. The movement in Congress and in some of the State legislatures for extending responsibility in Indian affairs to States should be encouraged. A complete participation by the Indian in our economic life is the end to be desired.

THE NEGRO

For 65 years now our negro population has been under the peculiar care and solicitude of the National Government. The progress which they have made in education and the professions, in wealth and in the arts of civilization, affords one of the most remarkable incidents in this period of world history. They have demonstrated their ability to partake of the advantages of our institutions and to benefit by a free and more and more independent existence. Whatever doubt there may have been of their capacity to assume the status granted to them by the Constitution of this Union is being rapidly dissipated. Their cooperation in the life of the Nation is constantly enlarging.

Exploiting the Negro problem for political ends is being abandoned and their protection is being increased by those States in which their percentage of population is largest. Every encouragement should be extended for the development of the race. The colored people have been the victims of the crime of lynching, which has in late years somewhat decreased. Some parts of the South already have wholesome laws for its restraint and punishment. Their example might well be followed by other States, and by such immediate remedial legislation as the Federal Government can extend under the Constitution.

PHILIPPINE ISLANDS

Under the guidance of Governor General Stimson the economic and political conditions of the Philippine Islands have been raised to a standard never before surpassed. The cooperation between his administration and the people of the islands is complete and harmonious. It would be an advantage if relief from double taxation could be granted by the Congress to our citizens doing business in the islands.

PORTO RICO

Due to the terrific storm that swept Porto Rico last September, the people of that island suffered large losses. The Red Cross and the War Department went to their rescue. The property loss is being retrieved. Sugar, tobacco, citrus fruit, and coffee, all suffered damage. The first three can largely look after themselves. The

coffee growers will need some assistance, which should be extended strictly on a business basis, and only after most careful investigation. The people of Porto Rico are not asking for charity.

DEPARTMENT OF JUSTICE

It is desirable that all the legal activities of the Government be consolidated under the supervision of the Attorney General. In 1870 it was felt necessary to create the Department of Justice for this purpose. During the intervening period, either through legislation creating law officers or departmental action, additional legal positions not under the supervision of the Attorney General have been provided until there are now over 900. Such a condition is as harmful to the interest of the Government now as it was in 1870, and should be corrected by appropriate legislation.

SPECIAL GOVERNMENT COUNSEL

In order to prosecute the oil cases, I suggested and the Congress enacted a law providing for the appointment of two special counsel. They have pursued their work with signal ability, recovering all the leased lands besides nearly \$30,000,000 in money, and nearly \$17,000,000 in other property. They find themselves hampered by a statute, which the Attorney General construes as applying to them, prohibiting their appearing for private clients before any department. For this reason, one has been compelled to resign. No good result is secured by the application of this rule to these counsel, and as Mr. Roberts has consented to take reappointment if the rule is abrogated I recommend the passage of an amendment to the law creating their office exempting them from the general rule against taking other cases involving the Government.

PROHIBITION

The country has duly adopted the eighteenth amendment. Those who object to it have the right to advocate its modification or repeal. Meantime, it is binding upon the National and State Governments and all our inhabitants. The Federal enforcement bureau is making every effort to prevent violations, especially through smuggling, manufacture, and transportation, and to prosecute generally all violations for which it can secure evidence. It is bound to continue this policy. Under the terms of the Constitution, however, the obligation is equally on the States to exercise the power which they have through the executive, legislative, judicial, and police branches of their governments in behalf of enforcement. The Federal Government is doing and will continue to do all it can in this direction and is entitled to the active cooperation of the States.

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TREATY FOR THE RENUNCIATION OF WAR AS AN INSTRUMENT OF NATIONAL
POLICY—Continued

Date and number	Subject	Page
1928 Feb. 27	<p><i>To the French Ambassador</i></p> <p>Inability to understand how unequivocal and unqualified renunciation of war as an instrument of national policy could violate obligations imposed by the Covenant of the League of Nations or conflict with idea and purpose of the League; renewal of suggestion that Briand's original proposal and correspondence between the two Governments be laid before British, German, Italian, and Japanese Governments.</p> <p>(Footnote: Communication of text of this note through American Embassies to the French, British, German, Italian, and Japanese Foreign Offices.)</p>	9
Feb. 27	<p><i>Memorandum by Mr. Spencer Phenix, Assistant to the Under Secretary of State</i></p> <p>Conversation in which the Secretary of State stated, in response to a question by the French Ambassador, that he could see no objection to including in a general multilateral treaty renouncing war a provision that the breach of such treaty by one party would release the other parties from their obligations thereunder.</p>	11
Mar. 1	<p><i>To the Ambassador in France (cir. tel.)</i></p> <p>Texts of two anti-war resolutions adopted at recent Habana Conference: (1) general resolution condemning all war, and (2) resolution against aggression.</p> <p>(Instructions to repeat to Embassies in Germany, Great Britain, and Italy. Sent also to Embassy in Japan.)</p>	12
Mar. 3 (42)	<p><i>From the Ambassador in Great Britain (tel.)</i></p> <p>Request for interpretation of term "aggression" in second Habana resolution.</p>	14
Mar. 3 (53)	<p><i>To the Ambassador in Great Britain (tel.)</i></p> <p>Explanation that first Habana resolution would include not only war but also acts of aggression which might result in war.</p>	14
Mar. 16 (52)	<p><i>From the Ambassador in Germany (tel.)</i></p> <p>Information from Foreign Minister that Briand had inquired of colleagues at Geneva whether the U. S. Government had communicated with them regarding treaty and that the British, German, and Japanese representatives replied in affirmative.</p>	15
Mar. 30	<p><i>From the French Ambassador</i></p> <p>Further observations of Briand concerning proposed treaty; readiness of French Government to join in submitting to German, British, Italian, and Japanese Governments, the correspondence between the two Governments and in proposing a draft agreement essentially corresponding to the original Briand proposal, in the multipartite form desired by the United States and with changes of wording made necessary by the new concept of the pact.</p>	15
Apr. 3 (8494)	<p><i>From the Ambassador in France</i></p> <p>Favorable reaction in France to last Briand peace pact note.</p>	19

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TREATY FOR THE RENUNCIATION OF WAR AS AN INSTRUMENT OF NATIONAL
POLICY—Continued

Date and number	Subject	Page
1928 Apr. 5 (79)	<p><i>To the Ambassador in Great Britain (cir. tel.)</i> Information that because it is believed important to submit the treaty correspondence to British, German, Italian, and Japanese Governments without delay, the Secretary has inquired of the French Ambassador whether his Government is now agreeable. (Footnotes: Sent also to Embassies in France, Germany, Italy, and Japan. Information that on April 7 the French Ambassador made affirmative answer to Secretary's inquiry.)</p>	21
Apr. 9 (101)	<p><i>To the Ambassador in France (tel.)</i> Note for transmission to British, German, Italian, and Japanese Governments and accompanying draft treaty for renunciation of war (texts printed). (Instructions to repeat to Embassies in Great Britain, Germany, and Italy. Sent also to Embassy in Japan.) (Footnote: Delivery of notes and draft treaty to the respective Foreign Offices on April 13.)</p>	21
Apr. 10 (102)	<p><i>To the Ambassador in France (tel.)</i> Instructions to explain to Briand personally the Secretary's views and intention with regard to submission to the other four powers of the draft treaty correspondence.</p>	24
Apr. 11 (90)	<p><i>From the Ambassador in France (tel.)</i> Briand's understanding of Secretary's views and intention, and his reservation of right to submit to the other four powers a draft form of treaty embodying French point of view.</p>	26
Apr. 12 (91)	<p><i>From the Ambassador in France (tel.)</i> Request by Briand that Department also communicate to the other four powers the substance of its telegram No. 102 of April 10, and inform him of date it proposes to send the communications.</p>	26
Apr. 12 (105)	<p><i>To the Ambassador in France (tel.)</i> Information as to arrangements for submission of note, draft treaty, and correspondence to the other four Governments; instructions for advance notice and delivery to French Government.</p>	27
Apr. 16 (830)	<p><i>From the Ambassador in Japan</i> Favorable attitude of Foreign Minister toward the idea embodied in note and draft treaty, and his promise to give matter careful consideration.</p>	28
Apr. 17 (3411)	<p><i>From the Ambassador in Germany</i> Note from Foreign Minister, April 13, acknowledging receipt of U. S. note and enclosing a statement of views expressed at time of delivery (texts printed).</p>	29
Apr. 20	<p><i>Memorandum by the Under Secretary of State</i> Delivery by Count de Sartiges of French draft anti-war treaty.</p>	31
Undated [Rec'd Apr. 20]	<p><i>French Draft of Treaty</i> For the condemnation and renunciation of war as an instrument of national policy.</p>	32

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TREATY FOR THE RENUNCIATION OF WAR AS AN INSTRUMENT OF NATIONAL POLICY—Continued

Date and number	Subject	Page
1928 Apr. 21 (117)	<i>To the Ambassador in France (tel.)</i> Information that the French draft seems entirely unacceptable; instructions to avoid discussion of matter until advised of Department's position. (Sent also to Embassies in Great Britain, Germany, Italy, and Japan.)	34
Apr. 23 (118)	<i>To the Ambassador in France (tel.)</i> Unacceptability of French draft; exposition of Secretary's views on points emphasized in French correspondence and draft treaty; authorization to use this material, at own discretion, in discussions at Foreign Office. Willingness, if necessary to prevent complete failure of negotiations, to include provision that in event any party to treaty becomes involved in war, the other parties shall be released from obligations under the treaty so far as regards belligerent party; instructions to feel out general situation. (Instructions to repeat to Embassies in Great Britain, Germany, and Italy. Similar telegram to Embassy in Japan.)	34
Apr. 27 (88)	<i>From the Ambassador in Great Britain (tel.)</i> Expression by Foreign Secretary of readiness to approach anti-war treaty sympathetically, of probability that meeting of Foreign Secretaries might be necessary later, and of pleasure at intimation via British Ambassador that U. S. Secretary might be willing to go to Europe to meet them. Ambassador's suggestion that Secretary give to press a statement of position along lines of exposition set forth in telegram of April 23.	39
Apr. 30 (104)	<i>To the Ambassador in Great Britain (tel.)</i> Information that in address before American Society of International Law, April 28, Secretary gave statement of position as set forth in telegram of April 23. Hope that French proposal to Italian Government that question of compatibility of anti-war treaty with League Covenant, Locarno treaties, etc., be referred to a commission of jurists representing principal Locarno powers and Japan, will not meet with general acceptance.	41
May 1 (3473)	<i>From the Ambassador in Germany</i> Foreign Minister's note of April 27 (text printed) stating Germany's readiness to conclude anti-war pact and to enter into the necessary negotiations.	42
May 2 (93)	<i>From the Ambassador in Great Britain (tel.)</i> Inclination of British Government to accept anti-war proposal without serious discussion and to approach the subject of reservations, interpretations, etc., after treaty signature; probability that France will be urged to follow same procedure.	44
May 2 (42)	<i>From the Ambassador in Italy (tel.)</i> Italian favorable attitude toward treaty, their belief that preliminary meeting of jurists, including a U. S. representative, should be held, and their opinion that conference of Foreign Secretaries could be held later. (Repeated to London.)	45

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TREATY FOR THE RENUNCIATION OF WAR AS AN INSTRUMENT OF NATIONAL
POLICY—Continued

Date and number	Subject	Page
1928 May 2 (43)	<i>From the Ambassador in Italy (tel.)</i> Information that the British suggested to the Italians that an American juristic expert be invited to meet with juristic experts of other powers.	45
May 2 (108)	<i>To the Ambassador in Great Britain (tel.)</i> Opinion that the question does not require submission to conference of jurists; instructions to use efforts to discourage idea of conference. Information that any intimation that the Secretary would go to Europe to negotiate anti-war treaty is erroneous, and that there is no need for preliminary conference of Foreign Secretaries.	46
May 2 (56)	<i>To the Ambassador in Italy (tel.)</i> Statement of position regarding conference of jurists, and preliminary conference of Foreign Secretaries.	47
May 2 (122)	<i>To the Ambassador in France (tel.)</i> Statement of position regarding conference of jurists and preliminary conference of Foreign Secretaries. (Instructions to repeat to Berlin. Sent also to Japan.)	47
May 2 (47)	<i>From the Minister in Switzerland (tel.)</i> Opinion of Secretary General of League that there is no inconsistency between American proposal for anti-war pact and League Covenant.	48
May 3 (112)	<i>From the Ambassador in France (tel.)</i> Advice that Ambassador has heard nothing about either commission of technical experts or conference of Foreign Secretaries.	49
May 3 (95)	<i>From the Ambassador in Great Britain (tel.)</i> Discussion with Chamberlain regarding misunderstanding concerning Secretary's attitude toward conference of Foreign Secretaries, and Chamberlain's willingness to discourage proposed meeting of jurists. Desire of French Ambassador at London to talk with American Ambassador.	49
May 4 (111)	<i>To the Ambassador in Great Britain (tel.)</i> No objection to a talk with French Ambassador.	51
May 4 (55)	<i>From the Ambassador in Japan (tel.)</i> Unwillingness of Japan to participate in any conference of jurists or Foreign Secretaries not attended by United States.	52
May 4 (112)	<i>To the Ambassador in Great Britain (tel.)</i> Information that the Secretary's attitude toward conference of jurists and Foreign Secretaries has been conveyed to French, British, and German Ambassadors. Information as to Japanese attitude.	53
May 7 (99)	<i>From the Ambassador in Great Britain (tel.)</i> French Ambassador's opinion that some sort of meeting will be necessary before treaty can be put in final form; his statement that French acceptance of treaty would be made easier if Czechoslovakia, Poland, and Yugoslavia were favorable toward signing; his suggestion that American Ambassador talk over situation with Beneš, Czechoslovak Foreign Minister; his favorable attitude toward treaty, provided Secretary's interpretation, as given in Washington speech, can be put into more precise and authoritative form.	54

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TREATY FOR THE RENUNCIATION OF WAR AS AN INSTRUMENT OF NATIONAL POLICY—Continued

Date and number	Subject	Page
1928 May 7 (114)	<i>To the Ambassador in Great Britain (tel.)</i> Authorization of general and informal talk with Beneš.	55
May 8 (1682)	<i>From the Ambassador in Italy</i> Foreign Minister's note of May 4 (text printed) expressing willingness to reach agreement proposed by U. S. Government, but stating desire that United States participate in a preliminary meeting of jurists.	55
May 8 (127)	<i>To the Ambassador in France (tel.)</i> Transmittal of Italian note of May 4; likelihood that Italy will not prove insistent in conference matter. (Instructions to repeat to Berlin.)	56
May 8 (87)	<i>From the Minister in Canada (tel.)</i> Canadian uncertainty as to what arrangements will be made for Dominion participation in anti-war pact.	56
May 9 (101)	<i>From the Ambassador in Great Britain (tel.)</i> Information that Chamberlain is preparing a reply based substantially on German formula, and that he expressed gratification that Secretary does not wholly exclude conference of jurists; Ambassador's assumption that Secretary felt to the contrary.	57
May 9 (116)	<i>To the Ambassador in Great Britain (tel.)</i> Advice that Secretary has been careful to refrain from stating flatly that U. S. Government would decline to be represented at a conference of jurists.	57
May 9 (52)	<i>To the Minister in Canada (tel.)</i> Belief that question of Canadian participation in treaty is primarily one of Empire policy.	58
May 9 (102)	<i>From the Ambassador in Great Britain (tel.)</i> Report of discussions with Beneš concerning anti-war pact; opinion that Beneš is in favor of treaty and will exert his influence with the French Foreign Office.	59
May 10 (89)	<i>From the Minister in Canada (tel.)</i> Canadian desire for initial inclusion in treaty, provided Government at London agrees.	60
May 11 (103)	<i>From the Ambassador in Great Britain (tel.)</i> Arguments against Secretary's participation in any sort of conference; opinion that consultations on phraseology can be carried on under Secretary's guidance with Ambassadors at Washington.	61
May 12 (119)	<i>To the Ambassador in Great Britain (tel.)</i> <i>Aide-mémoire</i> from British Embassy, May 11 (text printed), stating that because Secretary of State was not favorably disposed toward conference of jurists or Foreign Ministers, British Foreign Secretary withdrew his suggestion.	62
May 14 (29)	<i>From the Minister in Poland (tel.)</i> Polish Government's regret that it was not equally associated with the five powers in anti-war pact plan, and its belief that both Czechoslovakia and Poland, as signatories of Locarno pact, should be included in invitation.	63

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TREATY FOR THE RENUNCIATION OF WAR AS AN INSTRUMENT OF NATIONAL
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Date and number	Subject	Page
1928 May 15 (32)	<i>To the Minister in Poland (tel.)</i> Instructions to explain that invitations were limited to the five great powers because real difficulties might emerge if field of formal negotiations were enlarged, and to inform Foreign Minister that Secretary will cooperate in any way to the end that Poland may become one of the original signatories. (Instructions to repeat telegram No. 29 of May 14 and this telegram to Embassy in London.)	64
May 17 (31)	<i>From the Minister in Poland (tel.)</i> Favorable attitude of Foreign Minister, and his promise to give a definite reply within a week.	65
May 19 (114)	<i>From the Ambassador in Great Britain (tel.)</i> British reply (text printed) to U. S. proposal of April 13, stating readiness to enter into negotiations looking to conclusion of treaty and agreement of the Dominions and India in the general principle of proposed treaty.	66
May 21 (130)	<i>To the Ambassador in Great Britain (tel.)</i> Arrangements for extending through U. S. Legations invitations to Canadian and Irish Free State Governments to participate in treaty; note for Foreign Secretary (text printed) extending through him invitation to Governments of Australia, New Zealand, South Africa, and India.	69
May 21 (127)	<i>From the Ambassador in France (tel.)</i> Gratification of French public at British note of May 19 which is taken as recognizing validity of France's position and as taking her reservations into consideration.	71
May 25 (2774)	<i>To the Ambassador in France</i> Explanation of the reason for the existence of confusion with respect to the two Habana resolutions.	71
May 25 (122)	<i>From the Ambassador in Great Britain (tel.)</i> Report of informal conversation in which Chamberlain explained his policy toward France and British desires with regard to the treaty in general.	72
May 26 (66)	<i>From the Ambassador in Japan (tel.)</i> Japanese reply (text printed) stating desire to render cooperation toward conclusion of a treaty.	75
May 30 (11)	<i>From the Minister in the Irish Free State (tel.)</i> Irish Free State reply (text printed) accepting U. S. invitation unreservedly.	76
May 30 (437)	<i>From the Minister in Canada</i> Canadian note (text printed) accepting U. S. invitation.	77
June 3	<i>From the British Ambassador</i> Objections to incorporation in treaty of a provision by which contracting parties would be liberated from their obligations toward one of their number who might become involved in war.	79
June 6 (147)	<i>From the Ambassador in France (tel.)</i> Briand's remarks that negotiations have reached point where they can hardly fail, and his belief that reservations of views of various powers can be put in concrete form by protocol, expanded preamble, or other means.	79

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TREATY FOR THE RENUNCIATION OF WAR AS AN INSTRUMENT OF NATIONAL POLICY—Continued

Date and number	Subject	Page
1928 June 9 (1452)	<i>To the Chargé in Great Britain</i> Conversation with the British Ambassador in which the Secretary expressed his inability to agree to suggested inclusion by each country of reservations, provisos, or understandings.	80
June 11 (1776)	<i>From the Minister in Poland</i> Polish note (text printed) accepting U. S. invitation.	83
June 12	<i>Memorandum by the Under Secretary of State</i> Conversation in which the Japanese Chargé offered certain technical suggestions as to phraseology of treaty, and reserved right to make further suggestions.	84
June 18	<i>From the British Embassy</i> Understanding that French reservations and the views expressed by the different powers are to be included in redraft of preamble.	86
June 19 (2853)	<i>From the Chargé in Great Britain</i> Foreign Office notes of May 30, June 2, June 11, and June 15 (texts printed), stating acceptance of U. S. invitation by the Governments of New Zealand, Australia, India, and South Africa, respectively.	87
June 20 (179)	<i>To the Ambassador in France (tel.)</i> Note for Foreign Office containing statement of U. S. position and transmitting a revised draft treaty containing redrafted preamble (texts printed). (Footnotes: Instructions to repeat to missions in Great Britain, Belgium, Czechoslovakia, Germany, Irish Free State, Italy, and Poland. Sent also to Japan. Information that, in accordance with telegraphic instructions of June 22, the note was dated June 23 and together with draft treaty was delivered to the respective Foreign Offices on that day.)	90
June 20 (157)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions for preparing the notes to the British Government and the Dominion Governments and India.	95
June 23	<i>Memorandum by the Chief of the Division of Western European Affairs</i> Conversation in which the Secretary handed to the Japanese Chargé a copy of identic note and revised treaty draft and explained certain changes in phraseology.	96
June 23	<i>Memorandum by the Under Secretary of State</i> Conversation in which the Secretary explained to the French Ambassador certain clauses in the preamble, and stated that he believed he had met all of France's views.	97
June 28 (27)	<i>From the Ambassador in Brazil (tel.)</i> Press query as to reason why Brazil has not been included in invitation to participate as original signatory; Ambassador's desire for statement thereon, for use with Foreign Minister if deemed desirable.	98

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TREATY FOR THE RENUNCIATION OF WAR AS AN INSTRUMENT OF NATIONAL POLICY—Continued

Date and number	Subject	Page
1928 June 29 (24)	<i>To the Ambassador in Brazil (tel.)</i> Explanation that original restriction to a few powers was to narrow the field of negotiations and to expedite conclusion of a treaty; reasons for inclusion of British Dominions and India and the Locarno powers.	98
June 29 (49)	<i>To the Ambassador in Peru (tel.)</i> Transmittal of text of telegram No. 24 of June 29 sent to Brazil, with explanation that same considerations apply to country to which Ambassador is accredited. (Instructions to repeat to Embassies in Chile and Argentina.)	100
June 29 (193)	<i>To the Ambassador in France (tel.)</i> Information that Secretary explained to French Ambassador that he could not put the interpretations as expressed in his note either into a preamble or exchange of notes as part of the treaty; similar statement to British Chargé. Instructions to telegraph if Ambassador knows what action French Cabinet has taken.	100
July 3 (155)	<i>From the Chargé in Great Britain (tel.)</i> Understanding that British are preparing reply to latest American proposal, that British and French juridical experts are studying legal aspect at Geneva, and that British Foreign Secretary regrets that American proposal has been presented in final form, for either acceptance or refusal.	101
July 5 (183)	<i>From the Ambassador in France (tel.)</i> Information from Briand that on his suggestion Cabinet gave its approval in principle to draft treaty, and that he stated he would continue study of situation with France's cosignatories to Locarno treaties, after which he would bring up question before Cabinet again.	101
July 6 (200)	<i>To the Ambassador in France (tel.)</i> Expression of opinion, in response to question raised by British Chargé, that there can be no inconsistency between the proposed treaty and the League Covenant.	102
July 6 (82)	<i>From the Chargé in Japan (tel.)</i> Foreign Office instructions to Japanese Chargé in Washington to take up question of alteration of phraseology to avoid possible objections of Privy Council when it studies matter of ratification.	103
July 6 (73)	<i>To the Chargé in Japan (tel.)</i> Memorandum handed to Japanese Chargé (text printed), explaining that text would justify translation into phraseology acceptable to Japanese, and stating that the phraseology in question has no such significance as was attributed to it.	104
July 6 (423)	<i>To the Ambassador in Spain</i> Information that Spanish Ambassador has expressed desire that Spain come into treaty as an original signatory.	105
July 11 (3706)	<i>From the Ambassador in Germany</i> Foreign Office note (text printed), stating agreement to interpretation in Secretary of State's note of June 23 and declaring readiness to sign revised draft treaty.	106

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Date and number	Subject	Page
1928 July 14 (193)	<i>From the Ambassador in France (tel.)</i> Foreign Office note (text printed), giving résumé of understandings as expressed in new preamble and Secretary's note, and stating disposition to sign revised draft treaty.	107
July 15 (72)	<i>From the Ambassador in Italy (tel.)</i> Foreign Office note (text printed), stating agreement with interpretation set forth in U. S. note of June 23 and disposition to proceed to signature of treaty.	108
July 16 (14)	<i>From the Minister in the Irish Free State</i> Foreign Office note, July 14 (text printed), stating acceptability of revised treaty and readiness to sign.	109
July 16 (218)	<i>To the Ambassador in France (tel.)</i> Information that press reports that U. S. Government has invited Spain to become original signatory are incorrect. (Instructions to repeat to Ambassador in Spain.)	109
July 17 (221)	<i>To the Ambassador in France (tel.)</i> Discussion with French Ambassador as to arrangements for signature of treaty, possibly at Paris about August 25.	110
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Aug. 17 (77)	<i>From the Ambassador in Spain (tel.)</i> Information that Primo de Rivera's communication to the press (text printed) indicates his acceptance of situation in regard to nonparticipation of Spain as an original signatory; intention to await Primo's arrival in San Sebastian before urging Spain's prompt adherence.	151
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Aug. 18 (283)	<i>To the Ambassador in France (tel.)</i> Information that Department thought that France would not have any objection to Morocco's adherence; instructions, however, that as objection does exist, to inform Foreign Office that Department does not desire to press the matter further at this time.	152
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NOTIFICATIONS OF ADHERENCE

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Aug. 27 (114 Dip.)	<i>From the Minister in Liberia</i> Foreign Office note (text printed) giving formal notification of adherence.	159
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Aug. 31 (2844)	<i>From the Netherlands Chargé</i> Information that necessary constitutional measures have been taken to adhere to treaty.	166
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Sept. 1 (122)	<i>From the Danish Minister</i> Declaration of formal adherence of Danish Government, which will be submitted to Parliament for ratification.	176
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Sept. 4 (11)	<i>From the Ambassador in Belgium</i> Note from Luxemburg Minister of State, August 29 (text printed), declaring that Luxemburg adheres and that instrument of adhesion will be transmitted to Washington after approval by legislative power.	179
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Sept. 10 (1004)	<i>From the Chargé in the Dominican Republic</i> Foreign Office note of September 7 (text printed), stating that Dominican Government's decision to adhere will be submitted for legislative approval.	198
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Sept. 14 (970)	<i>From the Ambassador in Mexico</i> Foreign Office note (text printed) accepting invitation to adhere and stating that as soon as treaty has come into effect by ratification by signatories, the necessary steps to accomplish formal adherence will be taken.	202
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Sept. 17	<i>To the Diplomatic Representatives in All Countries Except Those Which Were Original Signatories of the Treaty for the Renunciation of War</i> Instructions to present to government to which accredited the two certified copies of treaty transmitted with this instruction, one for purpose of formal adherence and the other for archives; further instructions to point out that instrument of adherence may be executed immediately in accordance with the constitutional or legal procedure of the government adhering.	207
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Oct. 12 (58)	<i>From the Chargé in Bolivia</i> Declaration of adherence by Cabinet Council of Bolivia, October 11 (text printed). Information that Department will be advised as soon as Bolivian Congress has taken action upon ratification thereof. (Footnote: Nonratification by the Bolivian Congress of adherence.)	220

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Oct. 25 (46)	<i>To the Ambassador in Argentina (tel.)</i> Observations on Senator Molinari's remarks concerning negotiations and effect of the anti-war treaty; permission to convey these views to Molinari if the Ambassador deems it wise.	222
Oct. 29 (86)	<i>From the Minister in Ethiopia</i> Information that on October 28 the King of Ethiopia sealed, signed, and ratified the treaty, this act constituting complete and final ratification under Ethiopian law.	225
Oct. 30 (14)	<i>To the Minister in Egypt</i> Instructions to present note to Egyptian Government (text printed) expressing pleasure at Egyptian decision to adhere and appreciation for friendly sentiments expressed in its note; information, for use if occasion requires, that complete adherence may be evidenced by deposit with U. S. Government of Egyptian adherence, and that there is no need to await ratification by the signatory powers.	226
Oct. 30 (647)	<i>From the Minister in Denmark</i> Foreign Office note of October 29 (text printed), stating that formal declaration of adhesion of Iceland, while reserving its ratification, has been endorsed on one of the certified copies which was forwarded to Danish Minister in Washington with instructions to transmit it to the Department for deposit. (Footnote: Transmitted by the Danish Minister on November 13.)	227
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Nov. 3 (288)	<i>To the Ambassador in Mexico (tel.)</i> Explanation of Department's instructions with regard to adherence procedure; information that Department regarded Mexican Government's note of September 14 as notice of adherence, but that if Mexican Government wishes to deposit its perfected instrument of adherence at Washington, the U. S. Government will be pleased to receive it.	229
Nov. 9 (79)	<i>From the Ambassador in Argentina (tel.)</i> Argentine President's decision that anti-war treaty does not offer possibilities for realizing universal peace which has always been ideal and policy of Argentina; information that Ambassador talked unsuccessfully with Senator Molinari on the basis of points contained in Department's telegram No. 46 of October 25; doubt that any further representations in immediate future would cause Argentine President to change his mind.	230

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Nov. 19 (123)	<i>To the Chargé in Japan (tel.)</i> Information that U. S. Government does not consider adherence by an unrecognized government to a multilateral treaty to which it is a party, entails recognition by U. S. Government; opinion that it is for Japanese Government to decide what the action would be on its part which would constitute recognition of the Chinese Nationalist Government; instructions to telegraph promptly if there is any likelihood that suggested reservation with regard to China will be seriously considered.	232
Nov. 19 (1402)	<i>From the Chargé in Salvador</i> Receipt of note from Salvadoran Government stating that it will at an opportune time issue resolution regarding its adherence.	233
Nov. 27	<i>From the French Ambassador</i> Note from Afghan Acting Minister for Foreign Affairs to the French Minister in Afghanistan of October 3 (text printed), asking that decision of Afghan Government to adhere to anti-war treaty be communicated to U. S. Government.	234

PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE FIFTH SESSION OF
THE PREPARATORY COMMISSION FOR THE DISARMAMENT CONFERENCE

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1928 Feb. 16 (12)	<i>From the Minister in Switzerland (tel.)</i> Announcement by Secretariat that provisional agenda will cover (1) progress of work of Security Committee, (2) Russian resolution regarding convention for total disarmament, and (3) progress of work of Preparatory Commission, including a full discussion of whether or not a second reading of draft convention is to take place in the session. (Footnote: Instructions by Acting Secretary of State, February 6, 1928, that Mr. Hugh Gibson, Ambassador in Belgium, proceed to Geneva to head American representation.)	240
Feb. 25	<i>From the Consul at Geneva (tel.)</i> Summary of Russian draft convention for immediate and complete disarmament.	240
Feb. 27 (14)	<i>From the Minister in Switzerland (tel.)</i> Desire of Gibson and Minister for instructions regarding forthcoming meeting, particularly as regards second reading of draft and U. S. attitude on Russian resolution.	242

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1928 Feb. 28 (23)	<i>To the Minister in Switzerland (tel.)</i> Instructions not to assume offensive at opening of meeting; opinion that Russian idea is so impractical that no detailed discussion is required; willingness to agree to second reading of draft if other powers so desire; information as to developments in naval limitation discussions; advice that there have been no new developments which would necessitate departure from stand previously taken on land and air armaments.	242
Mar. 9	<i>From the British Embassy</i> Information that British Government attaches great importance to its proposals at Geneva Naval Conference regarding capital ships and plans to allude thereto in broad terms at session of Preparatory Commission.	245
Mar. 10 (32)	<i>To the Minister in Switzerland (tel.)</i> For Gibson and Wilson: Information concerning conversation with British Ambassador on March 9, during which the Secretary advised the Ambassador that U. S. attitude remained the same and that he saw no reason to take up capital ship question at Preparatory Commission meeting.	245
Mar. 12 (2)	<i>From the Chief of the American Representation on the Preparatory Commission (tel.)</i> Probability that point (1) of agenda will result in formal adoption of Security Committee report. Information that feeling in regard to Russian proposals is divided; also that there is nearly unanimous feeling that more harm than good would result from a second reading of convention before a larger measure of agreement is reached by direct relations between various governments.	246
Mar. 12 (5)	<i>From the Chief of the American Representation on the Preparatory Commission (tel.)</i> Request for instructions as to questions regarding renunciation of war and obligations under multilateral treaty which may be evoked by remarks Chairman proposes to make in opening session.	247
Mar. 13 (1)	<i>To the Chief of the American Representation on the Preparatory Commission (tel.)</i> Instructions not to make proposed speech, or any speech, on subject of pending negotiations regarding arbitration, conciliation, and Briand proposal for renunciation of war.	248
Mar. 13 (3)	<i>To the Chief of the American Representation on the Preparatory Commission (tel.)</i> Instructions to state, if asked any questions regarding proposed anti-war treaty, that party in question should take up negotiations on matter at Washington.	248
Mar. 19 (10)	<i>From the Chief of the American Representation on the Preparatory Commission (tel.)</i> Information that Commission reached discussion of Russian proposals, and that while all delegations appear to be anxious to dispose of the proposals promptly, none apparently has courage to stand up against attacks of Russians; intention to keep free of debates as far as possible.	249

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PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE FIFTH SESSION OF
THE PREPARATORY COMMISSION FOR THE DISARMAMENT CONFERENCE—CON.

Date and number	Subject	Page
1928 Mar. 19 (11)	<i>From the Chief of the American Representation on the Preparatory Commission (tel.)</i> Failure of interested delegations to decide how to deal with Soviet proposals; feeling that one course under consideration—discussion of Russian proposals clause by clause with first reading of draft convention—would be futile and intolerable; suggestion that, if this course appears about to be adopted, the Chairman be authorized to point out that limitation of armament and complete disarmament are irreconcilable, and that the U. S. Government would have to consider whether it could continue with any profit to participate in work of Preparatory Commission.	250
Mar. 20 (4)	<i>To the Chief of the American Representation on the Preparatory Commission (tel.)</i> Endorsement of decision to abstain as far as possible from debate on Russian proposals.	251
Mar. 20 (5)	<i>To the Chief of the American Representation on the Preparatory Commission (tel.)</i> Doubt that suggestion in telegram No. 11 of March 19 would be advisable if it means a complete withdrawal from Preparatory Commission, which would give the other powers a chance to shift blame for failure of Conference onto U. S. Government; suggestion that a League member of Commission might ask League Council for instructions as to competence of Commission to consider plan for total disarmament when it was called to consider reduction and limitation of armament.	251
Mar. 21 (12)	<i>From the Chief of the American Representation on the Preparatory Commission (tel.)</i> Information that because American representative's continued silence on Soviet proposals was becoming conspicuous, in view of speeches by the other powers, he had deemed it wise to speak briefly on U. S. belief in multilateral pact as method of approach, disbelief in Russian proposals as impracticable, and other points in sense of Secretary's telegram No. 23 of February 28 to the Minister in Switzerland.	252
Mar. 23 (16)	<i>From the Chief of the American Representation on the Preparatory Commission (tel.)</i> Speech of March 21 (text printed).	253
Mar. 23 (18)	<i>From the Chief of the American Representation on the Preparatory Commission (tel.)</i> Advice that when question of fixing date for next meeting arose, American representative made clear U. S. attitude toward second reading of draft and suggested that Commission Chairman be asked to follow progress of direct negotiations for purpose of harmonizing divergent views and to convoke Commission as soon as he believed second reading might have reasonable prospect of success.	255

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PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE FIFTH SESSION OF THE PREPARATORY COMMISSION FOR THE DISARMAMENT CONFERENCE—CON.

Date and number	Subject	Page
1928 Mar. 23 (19)	<i>From the Chief of the American Representation on the Preparatory Commission (tel.)</i> Introduction and discussion of various resolutions regarding Russian proposals and second reading, without any definite action; decision of Russians, in view of rejection of proposals, to cooperate in partial disarmament, and their introduction of new draft, on which ruling as to discussion was reserved. Observation that there has not yet been such an entirely futile session.	255
Mar. 24 (20)	<i>From the Chief of the American Representation on the Preparatory Commission (tel.)</i> Letter from British representative (text printed) setting forth proposals regarding limitation of size and armament and extension of life of capital ships.	256
Mar. 24 (24)	<i>From the Chief of the American Representation on the Preparatory Commission (tel.)</i> Advice that British letter came as complete surprise, and that because British representatives left immediately for London, there has been no opportunity to discuss proposals or to learn reason for their presentation.	257
Sept. 18 (60)	<i>From the Ambassador in Belgium (tel.)</i> Inquiry from Chairman of Preparatory Commission as to opinion concerning date to be fixed for next meeting; request for Department's instructions.	257
Sept. 19 (64)	<i>To the Ambassador in Belgium (tel.)</i> Instructions to advise Chairman that his inquiry has been referred to Secretary of State. Information that the Secretary must confer with the President.	258
Oct. 30 (104)	<i>From the Minister in Switzerland (tel.)</i> Report that League Secretariat considers that it is time to break the deadlock on question of naval disarmament and intends to suggest that experts of the naval powers be called together for informal discussions in hope that a solution may be found.	258
Nov. 6	<i>From the Consul at Geneva (tel.)</i> Information that Chairman of Preparatory Commission does not intend to approach the naval powers in regard to preliminary conversation, but prefers to wait until British Government replies to American note concerning Franco-British naval agreement.	259
Dec. 1 (79)	<i>From the Ambassador in Belgium (tel.)</i> Opinion of Commission Chairman that to hold another meeting before some kind of agreement is reached between Great Britain and United States would be disastrous.	260
Dec. 6 (118)	<i>From the Minister in Switzerland (tel.)</i> Opinion of Secretary General of League that it would be wise from a strategic point of view to call a short session in February with a limited agenda from which an attempt should be made to exclude naval questions.	260

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PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE FIFTH SESSION OF
THE PREPARATORY COMMISSION FOR THE DISARMAMENT CONFERENCE—CON.

Date and number	Subject	Page
1928 Dec. 10 (81)	<i>From the Ambassador in Belgium (tel.)</i> Opinion that a meeting at the present time would be harmful; feeling that suggestion of a limited agenda from which naval matters are to be excluded is of questionable value; belief that a meeting should be avoided as it will probably only embitter relations between United States and Great Britain; opinion that decision practically rests with Germany, the only League member now urging a meeting, and Italy.	261
Dec. 15 (107)	<i>To the Minister in Switzerland (tel.)</i> Preference for postponement of meeting, but belief that attitude expressed by President Coolidge to the press—that disarmament question is under League and would have to be carried on irrespective of U. S. views, that United States has never indicated desire for postponement, and is always ready to cooperate with Commission—should prevail. (Instructions to repeat to Ambassador Gibson.)	262
Dec. 17 (123)	<i>From the Minister in Switzerland (tel.)</i> Information from Secretary General of League that Great Britain, France, and Germany agreed to advise Commission Chairman to call meeting between the 8th and 15th of April; his desire for unofficial expression by Secretary of opinion as to convenience of these dates.	263
Dec. 17 (109)	<i>To the Minister in Switzerland (tel.)</i> Instructions to advise Secretary General that U. S. Government is prepared to send delegates at any time.	264
Dec. 28 (693) (L. N. 1253)	<i>From the Minister in Switzerland</i> Receipt of notification from League that next session of Preparatory Commission has been convened for April 15.	264

REJECTION BY THE UNITED STATES OF THE FRANCO-BRITISH COMPROMISE PLAN
FOR NAVAL LIMITATION

1928 July 31 (358)	<i>From the British Chargé</i> Terms of Franco-British compromise plan for naval limitation (text printed), which it is hoped will promote general agreement and thus render fruitful the resumption of discussions in the Preparatory Commission for the Disarmament Conference.	264
Aug. 2	<i>To the British Chargé</i> Request for explanation of certain provisions in the note of July 31.	266
Aug. 2	<i>From President Coolidge (tel.)</i> Instructions to make no commitments concerning limitation of armaments.	267
Aug. 2 (180)	<i>To the Chargé in Great Britain (tel.)</i> Transmittal of text of note sent to the British Chargé on August 2, with instructions to discuss with Foreign Secretary the various points covered therein.	267

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REJECTION BY THE UNITED STATES OF THE FRANCO-BRITISH COMPROMISE PLAN
FOR NAVAL LIMITATION—Continued

Date and number	Subject	Page
1928 Aug. 3	<i>To President Coolidge (tel.)</i> Assurance that Secretary will make no commitments concerning limitation of armaments; explanation that he is simply asking British Government to explain certain provisions in order that proposal may be discussed intelligently with the Navy.	267
Aug. 3	<i>To President Coolidge</i> Report on extent of action which has been taken thus far in matter; intention to make no reply to the British note until British answer is received and the whole subject has been studied and submitted to the President.	268
Aug. 3	<i>To President Coolidge (tel.)</i> Information that no commitments have been made, that Department has simply asked for meaning of certain clauses, and that full report has been sent by mail. Intention to make no reply until subject is studied and submitted to the President.	270
Aug. 3	<i>From President Coolidge</i> Desire that nothing at all be done in relation to British proposals at present, not even inquiry for any explanation of proposals; information that matter can stand in abeyance until the President's return to Washington.	270
Aug. 3	<i>From the French Chargé</i> Terms of the Franco-British compromise plan for naval limitation (text printed); hope that U. S. Government may be able to give its approval.	271
Aug. 4 (178)	<i>From the Chargé in Great Britain (tel.)</i> Conversation with the Under Secretary of State for Foreign Affairs concerning Franco-British compromise plan, in which oral answers were given to the points mentioned in Secretary's telegram No. 180 of August 2.	272
Aug. 10 (184)	<i>From the Chargé in Great Britain (tel.)</i> Information that Acting Foreign Secretary gave assurance that press had misinterpreted Franco-British compromise plan as a definite, fixed agreement upon which the two Governments would stand even in opposition to the other members of the Preparatory Commission; his explanation that British Government has only been interested in making progress toward the solution of Preparatory Commission problems.	273
Aug. 10	<i>From the British Acting Secretary of State for Foreign Affairs to the British Chargé in Washington (tel.)</i> Explanation of the aims of the British and French Governments in reaching their naval limitation proposal; instructions to read this telegram to the Secretary of State at earliest opportunity.	275
Aug. 11 (380)	<i>From the British Chargé</i> Presumption that, as the American Chargé made the same inquiries in London as contained in the Secretary's note of August 2, the Secretary is already in possession of the requested information.	278

GENERAL

REJECTION BY THE UNITED STATES OF THE FRANCO-BRITISH COMPROMISE PLAN
FOR NAVAL LIMITATION—Continued

Date and number	Subject	Page
1928 Aug. 11 (255)	<i>To the Ambassador in France (tel.)</i> For Marriner, Chief of the Division of Western European Affairs: Information that President Coolidge desires that neither Secretary of State nor Embassies discuss further the Franco-British naval plan, and that nothing will be done in Washington until the President's return. Instructions to send copy to Embassies in Great Britain and Belgium. (Footnote: Sent also to Embassies in Germany, Italy, and Japan on August 22.)	278
Sept. 12 (201)	<i>From the Ambassador in Great Britain (tel.)</i> Report that atmosphere is clearing in regard to Franco-British naval proposal; summary of present situation, including understanding that Italy has notified the Foreign Office of inacceptability of agreement as it stands; suggestions as to U. S. answer.	278
Sept. 14 (104)	<i>To the Ambassador in Italy (tel.)</i> Opinion that the United States would never agree to provision for limiting only cruisers carrying 8-inch guns and leaving unlimited all cruisers carrying less than 8-inch guns; instructions to discuss matter informally with Foreign Office and ascertain Italy's attitude if possible.	280
Sept. 18 (92)	<i>From the Ambassador in Italy (tel.)</i> Information from Under Secretary that Italy has not replied to either France or Great Britain regarding naval proposal; his desire to facilitate an exchange of views between the Italian and U. S. Governments.	280
Sept. 22 (105)	<i>To the Ambassador in Italy (tel.)</i> Telegram from Premier Mussolini to the Italian Ambassador (text printed), stating intention to wait before answering Franco-British proposition, and instructing that the matter be discussed with the Secretary of State. Informal statement to the Italian Ambassador of the Secretary's objections, which will be submitted to the President.	281
Sept. 25 (329)	<i>To the Chargé in France (tel.)</i> Note for Foreign Office (text printed) submitting suggestions concerning provisions of Franco-British naval limitation agreement as summarized in Embassy's communication of August 3, and advising that unfortunately the agreement appears to fulfill none of the conditions which, to the U. S. Government, seem vital. (Footnote: Instructions to repeat to London for delivery, <i>mutatis mutandis</i> , to British Foreign Office. Information that the two notes were delivered on September 28.)	282
Sept. 26 (439)	<i>From the British Chargé</i> Notes exchanged between British and French Governments (texts printed) which led up to the Franco-British compromise.	286
Sept. 26 (330)	<i>To the Chargé in France (tel.)</i> Textual changes in U. S. note for French Government, occasioned by receipt from both Governments of texts of the notes exchanged. (Footnote: Sent also, <i>mutatis mutandis</i> , to the Ambassador in Great Britain.)	291

GENERAL

APPROVAL BY THE SECRETARY OF STATE OF HOUSE JOINT RESOLUTION FAVORING
THE ABOLITION OF SUBMARINES BY ALL NATIONS

Date and number	Subject	Page
1928 Jan. 28	<p><i>To the Honorable Stephen G. Porter</i> Suggestion that House resolution concerning submarines (text printed), be amended to express opinion of Congress that submarines be abolished and their construction prohibited by all the nations of the world.</p>	291

SPECIAL COMMISSION FOR THE PREPARATION OF A DRAFT CONVENTION ON THE
PRIVATE MANUFACTURE OF ARMS AND AMMUNITION AND OF IMPLEMENTS OF
WAR, SECOND AND THIRD SESSIONS

1928 July 17 (72)	<p><i>From the Minister in Switzerland (tel.)</i> League circular of July 15 (text printed) announcing that second session of Special Commission will open at Geneva on August 27 with provisional agenda covering drafting of a single text for draft convention.</p>	292
Aug. 9 (276)	<p><i>To the Minister in Switzerland</i> Instructions for participation as American representative; draft convention (text printed) intended to serve as a possible basis for agreement acceptable to U. S. Government.</p>	292
Aug. 27 (1)	<p><i>From the American Representative on the Special Commission (tel.)</i> Inquiry whether the Department draft limits "civil aircraft" to those "manufactured under military specifications;" suggestion that if full publicity concerning aircraft is made by U. S. Government Departments, United States might safely promise full publicity on "civil aviation" without limitation.</p>	301
Aug. 28 (1)	<p><i>To the American Representative on the Special Commission (tel.)</i> Instructions to maintain position that only aircraft and engines manufactured under military specifications should be listed in convention—or if necessary to meet views of other Governments, that only aircraft and engines manufactured for the armed forces of the respective countries should be included.</p>	301
Aug. 29	<p><i>Statement by the American Representative in the Fourth Meeting of the Second Session of the Special Commission</i> Reservation that U. S. Government has not changed its attitude against incorporation of all aircraft and engines as implements of war, as described under article 1 of the preliminary draft convention.</p>	303
[Undated]	<p><i>Preliminary Draft Convention</i> With regard to the supervision of the private manufacture and publicity of the manufacture of arms and ammunition and of implements of war, submitted to the League Council by the Special Commission.</p>	303
Sept. 10 (584) (L. N. 1201)	<p><i>From the Minister in Switzerland</i> Report on second session of Special Commission held August 27 to 30.</p>	311

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SPECIAL COMMISSION FOR THE PREPARATION OF A DRAFT CONVENTION ON THE PRIVATE MANUFACTURE OF ARMS AND AMMUNITION AND OF IMPLEMENTS OF WAR, SECOND AND THIRD SESSIONS—Continued

Date and number	Subject	Page
1928 Oct. 2 (92)	<i>From the Minister in Switzerland (tel.)</i> Information that next session of Special Commission will be held on December 5; desire for detailed comment from the Department on stand taken by delegation during last session as reported in despatch No. 584 of September 10.	314
Oct. 4 (90)	<i>To the Minister in Switzerland (tel.)</i> Instructions to report any developments which may have taken place in direction of ending deadlock and whether there is greater prospect of an agreement at forthcoming session.	314
Oct. 12 (97)	<i>From the Minister in Switzerland (tel.)</i> Lack of evidence that situation has altered. Suggestion that, as it is unlikely any tangible results will come from forthcoming meeting, the Department may wish to consider advisability of informing Secretary General that the U. S. Government feels its presence might impede achievement of some form of agreement among other delegations; observation that this course would entail some risk that attempt will be made to blame a failure on part of Commission to U. S. nonparticipation.	315
Oct. 16 (71)	<i>To the Ambassador in Belgium (tel.)</i> Request for views concerning next session of Special Commission.	316
Oct. 18 (68)	<i>From the Ambassador in Belgium (tel.)</i> Opinion that if United States nonparticipation in meeting might be taken as a refusal to cooperate in arms limitation, then the United States should be represented, but that representation should be reduced to a minimum.	317
Nov. 21 (260)	<i>To the Ambassador in Great Britain (tel.)</i> For Wilson, Minister in Switzerland: Information that two instructions have been sent to Berne, one approving his position at last session, and the other designating the Minister as U. S. delegate to attend third session.	317
Nov. 22 (354)	<i>To the Minister in Switzerland</i> Approval of position at last session; observations and instructions concerning third session.	318
Dec. 7	<i>Declaration by the American Representative in the Second Meeting of the Third Session of the Special Commission</i> Appeal that in interval until Commission meets again the delegates examine the question of achieving full publicity for both public and private manufacture, on which the Commission has not been able to agree.	321
Dec. 13 (673)	<i>From the Minister in Switzerland</i> Report on third session of Commission held December 5 to 7; revised preliminary draft convention (text printed).	323
Dec. 28 (692) (L. N. 1249)	<i>From the Minister in Switzerland</i> Transmittal of League communication of December 22, requesting the appointment of an expert to discuss the proposal submitted by Belgian delegate with regard to drafting of article 1 of the preliminary draft convention; information that the meeting of experts will be held on March 11, 1929, at Geneva.	333

GENERAL

POLICY OF THE DEPARTMENT OF STATE REGARDING THE EXPORTATION OF MILITARY EQUIPMENT TO CERTAIN COUNTRIES

Date and number	Subject	Page
1927 Oct. 15	<i>From the Acting Secretary of War</i> Request that a list be furnished of those countries to which there is objection to the export of Liberty aviation engines.	334
1928 Jan. 11	<i>To the Secretary of War</i> Observations relative to certain countries in Latin America, Europe, and the Far East; desire to be advised of any requests for sale of aviation material or war supplies to any foreign government, because the situation changes from time to time.	334

CONVENTION AND PROTOCOL FOR THE ABOLITION OF IMPORT AND EXPORT PROHIBITIONS AND RESTRICTIONS, WITH SUPPLEMENTARY AGREEMENT AND PROTOCOL, SIGNED AT GENEVA

1928 July 11	<i>International Convention and Protocol, Together with a Supplementary Agreement and Protocol</i> For the abolition of import and export prohibitions and restrictions. (Footnote: Convention and protocol signed at Geneva, November 8, 1927; signed on part of the United States, January 30, 1928. Supplementary agreement and protocol signed July 11, 1928; signed on the part of the United States, July 31, 1928.)	336
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SECOND INTERNATIONAL CONFERENCE FOR THE ABOLITION OF IMPORT AND EXPORT PROHIBITIONS AND RESTRICTIONS, GENEVA, JULY 3-19, 1928

1928 Feb. 16 (294)	<i>From the Minister in Switzerland</i> Transmittal of League document containing exceptions claimed by various governments under article 6 of the convention for abolition of import prohibitions and restrictions, including letter of French Government of January 27, 1928 (text printed), stating intention to adopt certain restrictive measures regarding French and foreign films. Minister's opinion that the number of exceptions should be limited as far as possible.	366
Feb. 29 (317) (L. N. 1079)	<i>From the Minister in Switzerland</i> Opinion that French law of February 18 appears to set up a censorship under which foreign films might be refused visas arbitrarily, for sake of protecting French film industry; suggestion that at July meeting of conference, American representative might state that while this and similar laws do not technically violate the convention, they might open the door to a violation of the spirit of the convention, should the administering authorities so desire.	368
Apr. 13 (393) (L. N. 1117)	<i>From the Chargé in Switzerland</i> League communication of April 11 (text printed), announcing that the Conference will reconvene on July 3 for the purpose of deciding with regard to (1) requests for exceptions under article 6 of the convention, and (2) necessary conditions for putting convention into force.	369

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SECOND INTERNATIONAL CONFERENCE FOR THE ABOLITION OF IMPORT AND EXPORT PROHIBITIONS AND RESTRICTIONS—Continued

Date and number	Subject	Page
1928 Apr. 27 (47)	<i>To the Minister in Switzerland (tel.)</i> Letter for Secretary General of League (text printed), stating U. S. disappointment at the extensive exceptions requested, and reserving right to offer objections. Instructions to report concerning observations submitted by the various countries.	371
May 25 (57)	<i>To the Minister in Switzerland (tel.)</i> Letter for Secretary General of League (text printed) stating that Mr. Hugh Wilson, Minister in Switzerland, will represent the United States at forthcoming Conference.	372
June 5 (57)	<i>From the Minister in Switzerland (tel.)</i> Tendency of other states to await results of July conference as applied to French letter of January 27 concerning films; desire for instructions as to a statement of U. S. attitude at July conference.	372
June 15 (237)	<i>To the Minister in Switzerland</i> Instructions with regard to action to be taken at Conference.	373
June 21 (63)	<i>To the Minister in Switzerland (tel.)</i> Insistent requests from film interests urging a strong stand.	381
June 27 (64)	<i>From the Minister in Switzerland (tel.)</i> Request for explanation of portion of instruction No. 237 of June 15. Information that attitude on film question will provoke liveliest public interest; and communication of certain observations thereon.	381
June 28 (65)	<i>To the Minister in Switzerland (tel.)</i> Information that Department favors Minister's suggestion that he present a speech which would amount to a brief on legality of French action with respect to films under terms of treaty, but will leave question of procedure to his discretion.	382
June 29 (67)	<i>To the Minister in Switzerland (tel.)</i> Opinion that if particular exceptions are recognized by Conference in order to bridge over present difficulties, it is important that clause be inserted in <i>procès-verbal</i> to prevent extension of such interpretation of the convention to cases which may arise in the future.	382
July 2 (2)	<i>From the Chief of the American Delegation (tel.)</i> Summary of speech which American representative suggests he make regarding restrictive measures on films.	383
July 3 (1)	<i>To the Chief of the American Delegation (tel.)</i> Approval of suggested speech; desire that if American representative should make this speech, he follow it up with utmost vigor and consider the proposing of a protocol or declaration for signature by parties to the convention to the effect that the restrictions such as those of France on subject of exhibiting foreign films are considered to be contrary to the intent of the convention, and in fact, in contravention of it.	387
July 3 (3)	<i>From the Chief of the American Delegation (tel.)</i> Decision of Conference that claims for exception which seem to be covered by other sections of the convention must be thrown out as not admissible to discussion under article 6.	388

GENERAL

SECOND INTERNATIONAL CONFERENCE FOR THE ABOLITION OF IMPORT AND EXPORT PROHIBITIONS AND RESTRICTIONS—Continued

Date and number	Subject	Page
1928 July 3 (4)	<i>From the Chief of the American Delegation (tel.)</i> Report on action of Conference in rejecting or admitting for discussion various exceptions brought forth; information that the U. S. exception on helium gas was admitted for discussion.	388
July 4 (5)	<i>From the Chief of the American Delegation (tel.)</i> Advice that Conference has taken definite position that its only task is to discuss matters for which convoked; impossibility, therefore, of bringing film matter to decision; intention, however, to insist upon right to make statement of U. S. viewpoint.	390
July 4 (6)	<i>From the Chief of the American Delegation (tel.)</i> List of exceptions now admitted for discussion under article 6; inclusion of U. S. exception regarding helium gas.	390
July 4 (7)	<i>From the Chief of the American Delegation (tel.)</i> Report of disposition of various exceptions; admission of U. S. reservation on helium under paragraph 2 of article 6.	391
July 5 (8)	<i>From the Chief of the American Delegation (tel.)</i> Information that matter of ratification will soon be brought up for discussion; inquiry as to authorization to state that convention and protocol with new annex, if American representative is authorized to sign, will be submitted to Senate at next session.	392
July 5 (9)	<i>From the Chief of the American Delegation (tel.)</i> Further action on various reservations.	392
July 5 (10)	<i>From the Chief of the American Delegation (tel.)</i> Further action on various reservations; report that a preliminary discussion of conditions required for entry into force of convention brought up a greater divergence of opinion than hitherto manifested in Conference.	392
July 5 (2)	<i>To the Chief of the American Delegation (tel.)</i> Inability to authorize statement which would bind President to submit a treaty to Senate or in advance to recommend a treaty to him. Instructions, however, to state there is every reason to suppose that convention and protocol signed by American representative and such instruments of present Conference as he may be authorized to sign will be submitted to next session of Senate.	393
July 6 (11)	<i>From the Chief of the American Delegation (tel.)</i> Drafting committee proposal that ratification must be made by at least 20 states, and that each state notifying ratification before September 30, 1929, may name states from list of 14, including United States, on whose ratification it makes its own ratification dependent; insistence of certain states, notably Germany, that U. S. ratification might be essential prerequisite to their ratification.	393

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SECOND INTERNATIONAL CONFERENCE FOR THE ABOLITION OF IMPORT AND EXPORT PROHIBITIONS AND RESTRICTIONS—Continued

Date and number	Subject	Page
1928 July 6 (12)	<i>From the Chief of the American Delegation (tel.)</i> Information that Conference agreed in principle that convention must be ratified by at least 18 states, including the list of 14 contained in telegram No. 11 of July 6, and that if ratifications have been notified before September 30, 1929, convention will enter into force on January 1, 1930; special clause (text printed) to cover contingency that because of short session of Congress 1928-1929, U. S. ratification may not be obtained before September 30, 1929. Disposition of various reservations. Promise of opportunity to make statement on films.	394
July 7 (3)	<i>To the Chief of the American Delegation (tel.)</i> Instructions to use full influence against proposal outlined for bringing convention into effect. Gratification that a number of exceptions reserved by other countries have been withdrawn.	395
July 7 (13)	<i>From the Chief of the American Delegation (tel.)</i> Agreement upon special provision permitting United States and Bulgaria to maintain their reservations by signing annex and protocol to general convention on or before September 1. Information that text for first reading will be circulated the following day for probable signature July 11.	396
July 7 (14)	<i>From the Chief of the American Delegation (tel.)</i> Delivery of film speech and general reservation of rights; agreement of several delegations with French justification of film restrictions on basis of maintaining national culture and traditions.	396
July 8 (15)	<i>From the Chief of the American Delegation (tel.)</i> Unsuccessful efforts to persuade colleagues that the United States should not be included in the list; doubt that any useful purpose would be served by further insistence.	397
July 8 (4)	<i>To the Chief of the American Delegation (tel.)</i> Advice that the Department is satisfied that the American representative has done all that could be expected and leaves his future course entirely to his judgment.	398
July 11 (19)	<i>From the Chief of the American Delegation (tel.)</i> Signature of the supplementary agreement by all states represented at Conference except United States and Bulgaria. (Footnote: Signature on behalf of the United States by the American representative, July 31.)	398

GENERAL

INTERNATIONAL CONVENTION OF THE COPYRIGHT UNION, AS REVISED AND SIGNED
AT ROME, JUNE 2, 1928

Date and number	Subject	Page
1927 Aug. 2	<i>From the Italian Ambassador</i> Invitation to participate in International Conference on Copyright at Rome in October 1927.	398
1928 Apr. 28	<i>To the Italian Ambassador</i> Acceptance of invitation to attend the Copyright Conference on May 8, 1928; designation of Mr. Henry P. Fletcher, Ambassador in Italy, Mr. Thorvald Solberg, Register of Copyrights, Library of Congress, and the Honorable Sol Bloom, Member of Congress, as U. S. delegates. (Footnote: Postponement of the Conference from October 1927.)	399
July 25 (1797)	<i>From the Ambassador in Italy</i> Report of the U. S. delegation to the Copyright Conference, and convention for the protection of literary and artistic works signed at Berne, September 9, 1886, as revised and signed at Berlin, November 13, 1908, and at Rome, June 2, 1928 (texts printed). (Footnote: Submission of convention to the Senate, February 19, 1934.)	400

ADHERENCE OF THE UNITED STATES TO THE SLAVERY CONVENTION, SIGNED AT
GENEVA, SEPTEMBER 25, 1926

1927 May 19 (C. L. 48 (b) 1927, VI)	<i>From the Secretary General of the League of Nations</i> Invitation to adhere to the slavery convention signed at Geneva, September 25, 1926.	417
May 22	<i>To President Coolidge</i> Recommendation that slavery convention be submitted to Senate for advice and consent to U. S. adherence. (Footnote: Information that on May 22, 1928, the President submitted to the Senate the slavery convention and Secretary of State's recommendation.)	417
	<i>Slavery Convention Signed at Geneva, September 25, 1926</i> (Bracketed note: Adherence advised by the Senate, February 25, 1929, with reservation.)	419

GENERAL

RATIFICATION BY THE UNITED STATES OF THE CONVENTION RELATING TO THE LIQUOR TRAFFIC IN AFRICA, SIGNED AT SAINT GERMAIN-EN-LAYE, SEPTEMBER 10, 1919

Date and number	Subject	Page
1928 May 22	<p><i>To President Coolidge</i></p> <p>Recommendation that convention relating to the liquor traffic in Africa, signed at Saint Germain-en-Laye, September 10, 1919, be submitted to the Senate for advice and consent to U. S. ratification, subject to a reservation in regard to arbitral procedure; draft of a letter from President Coolidge to the Senate for that purpose (text printed).</p> <p>(Footnote: Sent to the Senate, May 22, 1928.)</p>	426
	<p><i>Convention Signed at Saint Germain-en-Laye, September 10, 1919</i></p> <p>For the restriction of the liquor traffic in the African territories under the administration of the contracting parties.</p> <p>(Bracketed note: Adherence advised by the Senate on February 28 (legislative day of February 25), 1929, with reservation.)</p>	429

CONVENTION SIGNED AT SAINT GERMAIN-EN-LAYE, SEPTEMBER 10, 1919, REVISING THE GENERAL ACT OF BERLIN OF 1885 AND THE GENERAL ACT AND DECLARATION OF BRUSSELS OF 1890

1928 May 22	<p><i>To President Coolidge</i></p> <p>Recommendation that convention signed at Saint Germain-en-Laye, September 10, 1919, revising the General Act of Berlin of 1885 and the General Act and Declaration of Brussels of 1890, which convention provides for equality of commercial treatment, assures religious freedom, and protection of religious, charitable, and scientific institutions in Africa, be submitted to the Senate for advice and consent to U. S. ratification, subject to a reservation in regard to arbitral procedure; draft of a letter from President Coolidge to the Senate for that purpose (text printed).</p>	433
	<p><i>Convention Signed at Saint Germain-en-Laye, September 10, 1919</i></p> <p>Revising the general act of Berlin of 1885 and the general act and declaration of Brussels of 1890.</p> <p>(Bracketed note: Adherence advised by the Senate on April 3 (legislative day of April 2), 1930, with reservation.)</p>	437

GENERAL

INTEREST OF THE UNITED STATES IN EFFORTS OF THE LEAGUE OF NATIONS TO CONTROL THE TRAFFIC IN NARCOTIC DRUGS

Date and number	Subject	Page
1928 Mar. 23	<i>To Senator Reed Smoot</i> Exposition of policy of the U. S. Government with regard to the control of the traffic in narcotic drugs.	444
Mar. 27	<i>To Four American Insurance Companies</i> Hope that companies will join the other 72 members of the American Institute of Marine Underwriters in voluntarily including in their policies the so-called "dangerous drug clause" which provides that no losses will be paid on narcotic shipments not covered by import permits from countries to which consigned or by export permits from countries from which exported. (Footnote: Information that the four replies received indicated no agreement as to a new clause in policies.)	446
Sept. 7 (89)	<i>From the Minister in Switzerland (tel.)</i> League communication of September 5 (text printed) inviting the United States to nominate a person to participate in appointment of the Permanent Central Board provided under the Geneva opium convention and also to take full part in settlement of the procedure for appointment of that board.	448
Sept. 29 (89)	<i>To the Minister in Switzerland (tel.)</i> Note for League (text printed) advising of the U. S. Government's regret that it does not find it possible to participate in the selection of the Permanent Central Board, and setting forth certain criticisms of the Geneva convention.	448
Oct. 18 (627) (L. N. 1223)	<i>From the Minister in Switzerland</i> League communication of October 16 (text printed), inquiring whether the U. S. Government would permit a commission of inquiry into use of opium prepared for smoking to visit Philippine Islands to study system of prohibition in operation there, and stating understanding that commission members will be chosen from nations not directly concerned in problem to be investigated.	449
Dec. 8 (106)	<i>To the Minister in Switzerland (tel.)</i> Instructions to inform League that commission will be made welcome in the Philippines. Information that the U. S. Government, in view of inability to take part in electing the Permanent Central Board, could not recommend or endorse any American for a board position; instructions to inform League that matter is one in regard to which Department would prefer to express no opinion.	452
Dec. 15	<i>From the Consul at Geneva (tel.)</i> Appointment by League Council of Mr. Herbert L. May of Pittsburgh as a member of the Central Board.	452

GENERAL

INTEREST OF THE UNITED STATES IN EFFORTS OF THE LEAGUE OF NATIONS TO CONTROL THE TRAFFIC IN NARCOTIC DRUGS—Continued

Date and number	Subject	Page
1928 Dec. 15 (121)	<p><i>From the Minister in Switzerland (tel.)</i></p> <p>Memorandum adopted by League Council, December 14 (text printed), stating regret that U. S. Government does not find it possible to accept its invitation to participate in selection of the board, setting forth observations on U. S. criticisms of Geneva opium convention, and expressing hope that U. S. Government will continue to extend the practical collaboration which now exists.</p> <p>(Footnote: Announcement by Secretary in telegram No. 111 of December 29, to the Minister in Switzerland, that Mr. John K. Caldwell, Consul General assigned to the Department, would "attend unofficially" the 12th session of the Advisory Committee on Traffic in Opium and Other Dangerous Drugs at Geneva, beginning January 17, 1929.)</p>	452

PARTICIPATION OF THE UNITED STATES IN THE INTERNATIONAL TELEGRAPH CONFERENCE AT BRUSSELS, SEPTEMBER 10-22, 1928

1928 July 31 (74)	<p><i>To the Minister in Sweden</i></p> <p>Instructions to proceed to Brussels to act as chairman of the American delegation at the International Telegraph Conference to open September 10, 1928, for the purpose of considering question of code language and rates charged in connection therewith.</p>	455
Aug. 23	<p><i>To American Diplomatic Officers in Mexico and Central and South America (cir. tel.)</i></p> <p>Information that the American delegation is being instructed to endeavor to maintain <i>status quo</i> as regards method of counting words and rates; instructions to ascertain if government to which accredited will have representatives at Conference and if so, to endeavor to have similar instructions issued to them.</p>	457
Sept. 10 (61)	<p><i>To the Ambassador in Belgium (tel.)</i></p> <p>For Harrison: Summary of information as to intentions of Latin American countries with regard to the Brussels Conference.</p>	458
Undated [Rec'd Sept. 24] (7)	<p><i>From the American Delegation (tel.)</i></p> <p>Signature of protocol containing amendments to international telegraph convention regulations, effective October 1929; information that amended regulations will not increase cost of telegraphic communication.</p>	458

GENERAL

PROPOSED DISPOSITION OF PROPERTY HELD BY THE ALIEN PROPERTY CUSTODIAN

Date and number	Subject	Page
1928 Jan. 4 (4/70)	<p><i>From the Austrian Minister</i></p> <p>Request that bill dealing with return of sequestrated Austrian property include a clause reserving to Austrian owners of patents, copyrights, etc., the same rights which Congress is willing to grant to German citizens; opinion that question of determining claims of Austrian citizens should not interfere with passage of a bill for return of property; desire that Austrian views be brought to attention of Congress.</p> <p>(Footnote: Transmitted, January 9, 1928, to the House Committee on Ways and Means.)</p>	459
Jan. 17	<p><i>From the Swiss Minister</i></p> <p>Information that pending bill provides in effect that neutral corporations, in order to recover property still held by Alien Property Custodian, shall be obliged to file a consent that 20 percent of their property may be retained by the United States; request that appropriate steps be taken to assure complete release of Swiss properties.</p>	461
Jan. 23	<p><i>To the Swiss Minister</i></p> <p>Information of the transmittal to Senate Finance Committee of Minister's note of January 17 concerning H. R. 7201.</p> <p>(Footnote: Enactment of H. R. 7201 on March 10, 1928.)</p>	463
Jan. 23 (5)	<p><i>From the Danish Minister</i></p> <p>Request that full and unqualified compensation be provided for seized German merchant vessels belonging to residents of North Slesvig, now Danish citizens; desire that request be communicated to Senate Committee.</p>	463
Jan. 24	<p><i>To Senator Reed Smoot</i></p> <p>Transmittal, for information of Senate Finance Committee, of Secretary's statement of December 10, 1927, to the House Committee on Ways and Means with relation to return of Austrian and Hungarian property.</p>	464
Jan. 28	<p><i>To the French Ambassador</i></p> <p>Information from Alien Property Custodian that claims of Alsace-Lorraine for release of sequestrated property will not be affected by pending legislation, except that proof of pre-war ownership will not be required; observation that unless reciprocity is accorded by France to American citizens, the property cannot be returned under proposed act. Suggestion that data regarding Alsace-Lorraine claims be supplied.</p>	465
Feb. 13 (14)	<p><i>From the Danish Minister</i></p> <p>Opinion that amendment recently adopted by Senate Committee granting limited and conditional compensation to owners of two specified vessels does not seem to accord the full and unqualified compensation to which the Danish owners seem entitled; suggestion that Committee be so advised in order that amendment may be worded to cover all Danish claims of this order and to provide full and unconditional compensation.</p>	466

GENERAL

PROPOSED DISPOSITION OF PROPERTY HELD BY THE ALIEN PROPERTY
CUSTODIAN—Continued

Date and number	Subject	Page
1928 Apr. 19 (719/70)	<i>From the Austrian Minister</i> Observation that section 10 (d) of War Claims Settlement Act of 1928, providing that all property will be held to be owned by German Government if no claim has been filed with Alien Property Custodian within a year, is likely to deprive rightful Austrian owners of their property; desire for interpretation of other doubtful points; request that Alien Property Custodian be asked to furnish list of all unclaimed property recorded as Austrian-owned.	467
Apr. 24 (340/R)	<i>From the Hungarian Minister</i> Belief that section 10 (d) discriminates in favor of German Government as against Hungary; observation that procedure relating to deposit of unclaimed property in German account would appear to be injurious to Hungary; request for correct interpretation of section 10 (d).	469
May 9	<i>To the Austrian Minister</i> Opinion of Alien Property Custodian that section 25 of the Trading With the Enemy Act as amended by section 10 (d) refers to German-owned property and does not relate to Austrian property, and that Austrian-owned property may be credited when the citizenship of the person is not stated or known; answers to other questions; inability of Alien Property Custodian to furnish list of Austrian owners at present but his willingness to cooperate in due course.	471
May 11 (881/70)	<i>From the Austrian Minister</i> Understanding that statement regarding crediting of Austrian-owned property means that unclaimed Austrian-owned property may be credited to the Austrian special deposit account; desire to be advised as to the correctness of this interpretation.	472
May 12 (104/R)	<i>From the Austrian Minister</i> Request for a statement by the competent authorities as to what conditions they would consider appropriate to issue the certificate provided for by War Claims Settlement Act in matter of release of Austrian property; opinion that sequestered Austrian Government funds are sufficient to cover maximum possible awards against Austria.	473
May 23	<i>From the Alien Property Custodian</i> Advice that there is no law authorizing transfer of unclaimed property of Austrian citizens to Austrian Government account, and that only Austrian property or that of a corporation wholly owned by Austrian Government may be transferred to that account. (Footnote: Transmittal to the Austrian Minister on June 15.)	474
June 1	<i>To the Hungarian Chargé</i> Information that where Alien Property Custodian holds property to the credit of a citizen of Hungary, and the records of that office so disclose his citizenship, such property would not be credited to the German Government.	474

GENERAL

PROPOSED DISPOSITION OF PROPERTY HELD BY THE ALIEN PROPERTY CUSTODIAN—Continued

Date and number	Subject	Page
1928 June 16	<p><i>To the British Embassy</i></p> <p>Suggestion that the British Government may desire to instruct the Public Trustee to discontinue actions in Supreme Court of the District of Columbia to recover certain ex-enemy securities turned over by him pursuant to an agreement reached in October 1921 after conferences between representative of the Public Trustee and the Alien Property Custodian. Observation that the action of Public Trustee is in repudiation of an arrangement entered into in good faith and scrupulously observed by Alien Property Custodian.</p>	475
June 22	<p><i>To the Austrian Minister</i></p> <p>Statement by Commissioner of the Tripartite Claims Commission of June 5 (text printed) explaining impossibility of granting certification without accurate knowledge of maximum of judgments which can be rendered against Austria, advising that plans have been made to facilitate matters by affording opportunity for agents of the respective governments to explain to Commission progress in each case; information that Hungarian cases will be dealt with separately.</p>	483
June 26 (492/R)	<p><i>From the Hungarian Chargé</i></p> <p>Inquiry as to time limit for filing claims for return of property of Hungarian nationals, disposition of unclaimed property of Hungarian nationals, and amounts of Hungarian property held by Alien Property Custodian.</p>	484
Aug. 3	<p><i>To the Hungarian Chargé</i></p> <p>Information from Alien Property Custodian that property held to credit of Hungarian citizens will not be credited to German Government, that there is no time limit for filing a claim, and that he will be glad to furnish list of persons for whom his office holds assets when release of Hungarian property is begun, but that at present he does not have a sufficient force to do so.</p>	485
Aug. 21	<p><i>To the First Secretary of Embassy in France</i></p> <p>Transmittal to First Secretary, as acting American observer on the Reparation Commission, of queries from War Claims Arbiter for information to assist in determining the value of seized German shipping.</p>	485
Sept. 7	<p><i>From the Chargé in France</i></p> <p>Replies to queries of War Claims Arbiter as secured from Reparation Commission's records and after consultation with the competent officials.</p>	486
Oct. 6 (1900/70)	<p><i>From the Austrian Minister</i></p> <p>Request that all sequestered property of the Austrian Government, including trust held by the Austrian Tobacco Monopoly, be transferred to the Austrian special deposit account.</p>	487
Oct. 6 (643)	<p><i>From the Chargé in Rumania</i></p> <p>Desire of Ministry of Finance that steps be taken to hasten release of assets of the Austro-Hungarian Bank seized by Alien Property Custodian, in order that the portion of these assets assigned to Rumania might be available to it as soon as possible.</p>	488

GENERAL

PROPOSED DISPOSITION OF PROPERTY HELD BY THE ALIEN PROPERTY
CUSTODIAN—Continued

Date and number	Subject	Page
1928 Oct. 15	<i>From the Alien Property Custodian</i> Information that the necessary procedure has been ordered to comply with Austrian Minister's request for transfer of funds belonging to the Austrian Government.	489
Oct. 30	<i>From the British Embassy</i> Inability to concur in U. S. construction that the 1921 negotiations resulted in an agreement between the two Governments or in U. S. suggestion that the Public Trustee is endeavoring to repudiate an arrangement entered into in good faith and scrupulously observed by the Alien Property Custodian. Assurance that the suit is merely an attempt to obtain a definite interpretation of the legal position in regard to court decisions subsequent to the negotiations mentioned. Regret that the British Government do not see their way clear to instruct Public Trustee to discontinue the court actions.	489

PROPOSALS TO EUROPEAN COUNTRIES FOR AGREEMENTS AND TREATIES REGARDING
NATURALIZATION, DUAL NATIONALITY, AND MILITARY SERVICE

1928 Mar. 1	<i>To the Honorable Stephen G. Porter</i> Comments, as requested by the House Committee on Immigration and Naturalization, regarding H. J. Res. 195, introduced February 7 (text printed), which requests the negotiation of agreements and treaties with other nations to protect persons born in the United States of foreign parentage and naturalized citizens from liability for military service and other acts of allegiance upon temporary sojourn in such nations.	494
Dec. 1 (167)	<i>To the Ambassador in Belgium</i> Joint resolution as approved by the President on May 28, 1928 (text printed); instructions to propose the conclusion of a convention regarding military service to protect persons having dual nationality, the case of naturalized citizens already having been covered in the existing naturalization treaty; instructions to ascertain willingness to consider adoption of agreement for termination of dual nationality arising at birth, upon attainment by the persons concerned of a prescribed age. (Sent also, <i>mutatis mutandis</i> , on the same date, to missions in Bulgaria, Denmark, Great Britain, Norway, Portugal, and Sweden.)	497
Dec. 1 (2993)	<i>To the Ambassador in France</i> Desirability of including in draft treaty of naturalization, now under consideration between the two Governments, a provision concerning military service with regard to persons having dual nationality; instructions to inquire whether whole question of termination of dual nationality by adoption of an agreement might not be considered. (Similar instructions on the same day to missions in Greece, Italy, Poland, Spain, and Yugoslavia.)	499

GENERAL

PROPOSALS TO EUROPEAN COUNTRIES FOR AGREEMENTS AND TREATIES REGARDING NATURALIZATION, DUAL NATIONALITY, AND MILITARY SERVICE—Continued

Date and number	Subject	Page
1928 Dec. 1 (583)	<p><i>To the Chargé in Estonia</i> Instructions to submit to government to which accredited draft treaty concerning naturalization and military service (text printed); instructions to inquire whether whole question of termination of dual nationality by adoption of an agreement might not be considered. (Sent also, <i>mutatis mutandis</i>, to missions in Finland, Latvia, Lithuania, the Netherlands, and Rumania.)</p>	500

SECOND INTERNATIONAL CONFERENCE ON EMIGRATION AND IMMIGRATION, HELD AT HABANA, MARCH 31-APRIL 17, 1928

1928 Mar. 23	<p><i>To the American Delegation</i> Instructions to make clear the U. S. Government's position that control of immigration is a matter of purely domestic concern, and to take no action inconsistent with this attitude or in any way committing the U. S. Government.</p>	505
Aug. 24	<p><i>From the Cuban Chargé</i> Transmittal of certified copy of Final Act of the Conference with request that the U. S. Government adhere to resolution to hold next conference at Madrid.</p>	507
Aug. 25	<p><i>From the American Delegation</i> Report of the Habana Conference.</p>	508
Sept. 14	<p><i>To the Cuban Chargé</i> Opinion that no useful purpose is served by such conferences other than exchange of technical information which can be achieved by direct correspondence; U. S. inability to adhere to resolution or to participate in a third conference.</p>	526

SIXTH INTERNATIONAL CONFERENCE OF AMERICAN STATES, HELD AT HABANA, JANUARY 16 TO FEBRUARY 20, 1928

PRELIMINARIES

1926 Dec. 17	<p><i>From the Cuban Chargé</i> Invitation to be represented at the Sixth International Conference of American States, to open at Habana on January 16, 1928.</p>	527
1927 Jan. 6	<p><i>To the Cuban Chargé</i> Acceptance of invitation.</p>	528
Nov. 8 (85)	<p><i>To the Chargé in Cuba (tel.)</i> Instructions to inquire of Foreign Minister as to correctness of press report (text printed) that League of Nations has been invited to send a member of Secretariat to follow proceedings of the Conference, and if answer is in the affirmative, to state the U. S. view that no non-American nation or entity should attend Pan American conferences and the U. S. hope that Cuban Government will concur.</p>	529

GENERAL

SIXTH INTERNATIONAL CONFERENCE OF AMERICAN STATES, HELD AT HABANA,
JANUARY 16 TO FEBRUARY 20, 1928—Continued

Date and number	Subject	Page
1927 Nov. 9 (108)	<i>From the Chargé in Cuba (tel.)</i> Information that Foreign Minister sent for Chargé and, referring to telegram from Cuban Ambassador in Washington, advised that the Cuban Government not only did not invite a League of Nations representative, but refused Secretary General's request for invitation, as well as a request from Spanish Government.	530
Nov. 9 (2352)	<i>From the Chargé in Cuba</i> Report of the conversation with the Foreign Minister; information that in view of the voluntary information on Foreign Minister's part, the Chargé made no mention of Department's telegram No. 85 of November 8.	531
Nov. 10 (87)	<i>To the Chargé in Cuba (tel.)</i> Geneva press report (text printed) stating that the League Secretariat probably will participate in work of preliminary organization for the Conference, that Señor Cristobal Rodriguez, member of the Secretariat, is being sent to Habana, and that probably one or more League interpreters may go. Instructions to inquire immediately and report definitely regarding measures taken by Cuba with the League.	532
Nov. 11 (109)	<i>From the Chargé in Cuba (tel.)</i> Information from Foreign Minister that the League was consulted concerning strictly mechanical preparations for the Conference; that Rodriguez was anxious to come to Cuba to assist, Cuba has refused to allow him to come in any but a purely personal capacity; that owing to lack of competent interpreters in Cuba the League was asked whether some of its interpreters could be obtained as individuals to serve; and that no League official had been invited to come to Cuba in any capacity whatsoever.	533
1928 Jan. 5	<i>To the American Delegation</i> Instructions as to conduct at Habana Conference.	534

CONVENTIONS

1928 Feb. 20	<i>Convention Regarding Commercial Aviation</i>	585
Feb. 20	<i>Convention Regarding the Status of Aliens</i>	596
Feb. 20	<i>Convention Regarding Consular Agents</i>	598
Feb. 20	<i>Convention Regarding Maritime Neutrality</i>	604
Feb. 20	<i>Convention Regarding the Duties and Rights of States in the Event of Civil Strife</i>	612
Feb. 20	<i>Convention Regarding the Pan American Union</i>	615

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INTERNATIONAL CONFERENCE OF AMERICAN STATES ON CONCILIATION AND ARBITRATION, HELD AT WASHINGTON, DECEMBER 10, 1928, TO JANUARY 5, 1929; PRELIMINARY ARRANGEMENTS

Date and number	Subject	Page
1928 Apr. 14 (1364)	<p><i>To the Ambassador in Brazil</i></p> <p>Instructions to inform Brazilian Government that, in accordance with resolution of February 18, 1928, by the Pan American Conference at Habana, the U. S. Government suggests that a conference be held in Washington, December 10, 1928, for the purpose of drawing up a convention of arbitration and conciliation, and that each country send two delegates; also to inquire if these suggestions are acceptable. Desire for information with regard to attitude of Brazilian Government on question of arbitration and conciliation; information that as Brazil has ratified the Gondra Treaty regarding conciliation it would appear that that subject has been properly taken care of.</p> <p>(Sent also, <i>mutatis mutandis</i>, on the same date, to missions in Chile, Cuba, Haiti, Mexico, Paraguay, Uruguay, and Venezuela.)</p>	621
Apr. 14 (71)	<p><i>To the Ambassador in Argentina</i></p> <p>Instructions similar to those to Ambassador in Brazil, except for instructions to state informally the U. S. hope that the Argentine Government will ratify the Gondra Treaty and deposit ratifications at Santiago, Chile, before the Conference.</p> <p>(Sent also, <i>mutatis mutandis</i>, on the same date to missions in Bolivia, Colombia, Costa Rica, Dominican Republic, Guatemala, Honduras, Nicaragua, Panama, Peru, and Salvador. A similar instruction was sent to the mission in Ecuador on May 9, 1928.)</p>	623
Apr. 30 (219)	<p><i>From the Chargé in Cuba</i></p> <p>Acceptability to Cuba of the Department's suggestions. Information that Secretary of State is favorable in principle to arbitration provided local laws are adequately safeguarded.</p>	623
May 5 (594)	<p><i>From the Minister in Honduras</i></p> <p>Acceptability to Honduras of Department's suggestions. Information that Honduras will be unable to ratify Gondra Treaty before Conference because National Congress will not convene again before January 1, 1929.</p>	625
May 8 (1700)	<p><i>From the Minister in Panama</i></p> <p>Information that Panaman ratification of Gondra Treaty has already been sent to Santiago. Opinion that there is no doubt of Panama's readiness to adhere to proposed convention.</p>	625
May 10 (620)	<p><i>From the Chargé in Uruguay</i></p> <p>Favorable attitude of Uruguay toward principle of arbitration; expectation of an early answer to note presented in accordance with Department's instruction of April 14.</p>	626
May 11 (885)	<p><i>From the Minister in the Dominican Republic</i></p> <p>Informal opinion of Foreign Minister that suggestions for Conference will be acceptable; his endorsement of arbitration and conciliation; his observation that ratification of Gondra Treaty might opportunely precede the conference. Expectation of early advice as to Government's attitude.</p>	626

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INTERNATIONAL CONFERENCE OF AMERICAN STATES ON CONCILIATION AND ARBITRATION, HELD AT WASHINGTON, DECEMBER 10, 1928, TO JANUARY 5, 1929--
Continued

Date and number	Subject	Page
1928 May 14 (955)	<i>From the Chargé in Peru</i> Information that Department's suggestions are now being considered and that Gondra Treaty will probably be submitted to Congress when it assembles in July. Inability to obtain more than an impression of Peruvian attitude on question of arbitration and conciliation.	627
May 16 (1013)	<i>From the Chargé in Haiti</i> Haitian President's acceptance of suggestions for Conference and his favorable attitude toward arbitration of juridical questions and questions involving national honor.	630
May 17 (550)	<i>From the Minister in Paraguay</i> Agreement of Paraguayan Government with suggestions for Conference; its belief that all potential causes of war should be obligatory of arbitration.	630
May 24 (679)	<i>From the Minister in Nicaragua</i> Acceptability to Nicaraguan Government of suggestions for Conference; probability that no action can be taken in matter of ratification of Gondra Treaty until Congress convenes December 15. Inability to learn Nicaraguan Government's attitude on question of arbitration and conciliation.	631
May 24 (616)	<i>From the Minister in Honduras</i> Information from Foreign Minister that Honduran Government is in favor of arbitration of international differences.	632
May 24 (1946)	<i>From the Minister in Guatemala</i> Acceptance by Guatemala of suggestions for Conference. Probability that ratification of Gondra Treaty will be sent to Chilean Government by the end of the month. Advice that Foreign Minister expressed no specific ideas regarding proposed convention of arbitration.	632
May 29 (1399)	<i>From the Ambassador in Chile</i> Information that in discussion with Foreign Minister regarding probable action of Chilean delegates at December conference, the Minister said that in determining reservations that it would have to make as to arbitration, Chilean Government was influenced by the Tacna-Arica question.	633
June 4 (915)	<i>From the Minister in the Dominican Republic</i> Intention of Foreign Minister to press for ratification of Gondra Treaty as soon as the boundary negotiations with Haiti reach a successful conclusion; his verbal assurance that Department's suggestions for Conference are acceptable and that formal notification will be sent.	634
June 8 (1190)	<i>From the Minister in Salvador</i> Informal information from Salvadoran President that he will submit Gondra Treaty to National Assembly for ratification, that he approves Habana resolution in favor of obligatory arbitration for juridical differences, and that he sympathizes with Department's efforts toward international conciliation,	635

GENERAL

INTERNATIONAL CONFERENCE OF AMERICAN STATES ON CONCILIATION AND ARBITRATION, HELD AT WASHINGTON, DECEMBER 10, 1928, TO JANUARY 5, 1929—
Continued

Date and number	Subject	Page
1928 June 8 (153)	<i>From the Chargé in Mexico (tel.)</i> Nonobjection of Mexican Government to December conference; acceptability of suggestion as to two delegates; information that matter of obligatory arbitration of juridical questions is being studied, but that Acting Foreign Minister indicated little confidence in its efficacy in disputes between Mexico and a more powerful country.	635
June 14 (26)	<i>From the Minister in Bolivia (tel.)</i> Information that Gondra Treaty will be ratified by the Congress convening August 6; acceptability to Bolivia of suggestions for Conference, and reiteration of its adherence to principles of arbitration and conciliation.	636
June 14 (920)	<i>From the Minister in the Dominican Republic</i> Receipt of formal notification that Dominican Government agrees completely with suggestions for Conference.	637
June 19	<i>To the Chiefs of Diplomatic Missions in Latin America (cir. tel.)</i> Instructions to deliver formal invitation to attend Conference at Washington on December 10, 1928 (text printed).	637
June 27 (325)	<i>From the Ambassador in Argentina</i> Advice that while Foreign Minister stated he would renew attempts to obtain ratification of Gondra Treaty, and that Argentine Government has always approved arbitration, he is not sanguine of obtaining ratification; receipt of information as to acceptability of date of Conference and names of Argentine delegates.	638
July 3	<i>From the Minister in Costa Rica, Temporarily in Washington</i> Readiness of Costa Rican Government to cooperate in Conference; and probability that it will give favorable consideration to conciliation and arbitration proposals, provided that questions previously submitted to arbitration cannot be made subject of arbitration under any general treaty of arbitration. Observation that reservation was made because boundary controversy with Panama, decided in favor of Costa Rica, has not been accepted as settled by Panama.	639
July 7 (3029)	<i>From the Ambassador in Brazil</i> Acceptance by Brazil of invitation to attend December conference; personal note from Foreign Minister, July 2 (excerpt printed), stating that Brazil is bound by its constitution to resort to arbitration and is therefore able to adopt the most complete proposals for arbitration which may be brought up.	640
July 9 (1640)	<i>From the Chargé in Venezuela</i> Transmittal of official acceptance by Venezuela of invitation to attend December conference; information that Foreign Minister stated his firm belief in arbitration and conciliation.	641
July 12 (593)	<i>To the Minister in Ecuador</i> Instructions that, in view of Department's circular telegram of June 19 directing the extension of invitation to Ecuadoran Government, all invitations received by Legation under circular instructions subsequent to that date may be delivered. (Footnote: Extension of <i>de jure</i> recognition to the regime of Dr. Ayora on August 14, 1928.)	642

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INTERNATIONAL CONFERENCE OF AMERICAN STATES ON CONCILIATION AND ARBITRATION, HELD AT WASHINGTON, DECEMBER 10, 1928, TO JANUARY 5, 1929—
Continued

Date and number	Subject	Page
1928 Sept. 29 (1415)	<i>From the Chargé in Colombia</i> Impression that, although Colombian Government will be officially represented at Conference and Foreign Minister feels chances of obtaining ratification of Gondra Treaty are good, there is at present little interest in forthcoming Conference and little faith in conventions of arbitration and conciliation.	642
Oct. 13 (114)	<i>From the Ambassador in Chile (tel.)</i> Note from Chilean Government (excerpt printed), accepting invitation to Conference, notifying names of delegates, and declaring that Chile has always vigorously supported progress of arbitration in America.	643
Oct. 19 (32)	<i>From the Minister in Uruguay (tel.)</i> Information from Under Secretary for Foreign Affairs that attitude of Uruguayan Government relative to arbitration of juridical questions will be the same as at the Rio de Janeiro Conference.	643

ESTABLISHMENT OF PERMANENT COMMISSIONS UNDER TREATY TO AVOID OR PREVENT CONFLICTS BETWEEN THE AMERICAN STATES, SIGNED MAY 3, 1923
(GONDRA TREATY)

1928 Mar. 2	<i>To the Colombian Minister</i> Invitation to meet with the two other senior American diplomatic agents in Washington to organize the Permanent Commission having its seat at Washington as provided for in the Gondra Treaty; understanding that Uruguayan Foreign Minister is similarly inviting the three senior American diplomatic agents in Montevideo to organize the other Commission. (Sent also, <i>mutatis mutandis</i> , on the same date to the Panaman and Uruguayan Ministers.)	644
Mar. 26	<i>To the Colombian Minister</i> Invitation, in view of affirmative replies to invitations of March 2, to meet in the Acting Secretary of State's office on March 29, for the purpose of organizing the Permanent Commission at Washington; information that like notes are being addressed to the Uruguayan Minister and the Panaman Chargé.	645
Undated	<i>Report of a Meeting Between the Minister of Uruguay, the Minister of Colombia, and the Chargé d'Affaires ad Interim of Panama on March 29, 1928</i> Appointment by Commission of the Uruguayan Minister as Chairman; decision that Chairman shall notify State Department of any changes in personnel caused by termination of the mission of one of the members.	645
Dec. 7 (824)	<i>From the Uruguayan Minister</i> Establishment at Montevideo of the Permanent Commission, composed of the Mexican, Peruvian, and Chilean Ministers, and headed by the Mexican Minister as Chairman.	646
Dec. 22	<i>To the Uruguayan Minister</i> Acknowledgment of note of December 7.	646

GENERAL

GOOD OFFICES OF THE UNITED STATES IN THE REESTABLISHMENT OF DIPLOMATIC RELATIONS BETWEEN CHILE AND PERU

Date and number	Subject	Page
1928 July 9	<i>To President Coolidge</i> Receipt of assurances from Chilean and Peruvian Governments, in response to inquiry, that they will renew diplomatic relations and exchange Ministers; information that if the U. S. Government can induce them to exchange Ministers, the Secretary will take up again the question of settlement of Taena-Arica dispute.	647
July 9 (44)	<i>To the Ambassador in Chile (tel.)</i> Note for Foreign Minister (text printed) suggesting that Chile signify its readiness to reestablish diplomatic relations with Peru and stating that a similar inquiry is being made of Peruvian Foreign Minister. Instructions to stress importance of an unconditional and friendly acceptance which will avoid any references to Taena-Arica question or other controversial matters.	648
July 9 (52)	<i>To the Ambassador in Peru (tel.)</i> Transmittal of note for Foreign Minister and instructions similar in context to those in telegram to the Ambassador in Chile.	649
July 11	<i>From the Chilean Minister for Foreign Affairs</i> Full acceptance of U. S. suggestion.	650
July 12 (73)	<i>From the Ambassador in Peru (tel.)</i> Note from Foreign Minister, July 11 (text printed), stating Peru's disposition to reestablish diplomatic relations with Chile.	651
July 13 (47)	<i>To the Ambassador in Chile (tel.)</i> Instructions to present the Secretary's compliments to the President and Foreign Minister and to express his gratification. (Sent also, <i>mutatis mutandis</i> , on the same date, to the Ambassador in Peru.)	652
July 13 (58)	<i>To the Ambassador in Peru (tel.)</i> Information that the Secretary advised the Chilean and Peruvian Ambassadors that while he would be glad to assist in making arrangements regarding requests for <i>agrément</i> s, he believed they would probably be able to arrange this matter themselves; intention of Ambassadors to suggest that representatives be given rank of Ambassador. (Repeated to Chile.)	652
July 16 (59)	<i>To the Ambassador in Peru (tel.)</i> Desire of Chilean Government to learn whether Peruvian Government will agree to appointment of Ambassadors or only Ministers; instructions to use informal good offices to expedite reply.	653
July 17 (77)	<i>From the Ambassador in Peru (tel.)</i> Nonobjection of Peruvian President to appointment of Ambassadors.	653
July 21 (62)	<i>To the Ambassador in Peru (tel.)</i> Readiness of Chilean Government to send message to Congress on July 28 regarding reestablishment of diplomatic relations with Peru and to sign a decree the same day naming its Ambassador; instructions to bring this matter to attention of the proper authorities.	653

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GOOD OFFICES OF THE UNITED STATES IN THE REESTABLISHMENT OF DIPLOMATIC RELATIONS BETWEEN CHILE AND PERU—Continued

Date and number	Subject	Page
1928 July 23 (82)	<i>From the Ambassador in Peru (tel.)</i> Information that President Leguia said he saw no reason why Chile should not go ahead with procedure mentioned in Department's telegram No. 62 of July 21.	654
July 24 (64)	<i>To the Ambassador in Peru (tel.)</i> Instructions to confirm as soon as possible whether President Leguia agrees to take the same action as Chilean Government on July 28, so that Chilean Government can take the proposed action the same day.	654
July 24 (83)	<i>From the Ambassador in Peru (tel.)</i> Information from President Leguia that under the Constitution his message to Congress at inaugural session is limited to report on past activities and cannot initiate legislation, that Congress is also unable to enact legislation at that session, that he cannot name an Ambassador without approval of Senate, and that he will communicate to Congress immediately after close of the national holidays on July 31.	655
July 25 (65)	<i>To the Ambassador in Peru (tel.)</i> Receipt by Peruvian Ambassador of telegram stating that President Leguia will send message to Congress on July 28 for establishment of an Embassy in Santiago; agreement of Peruvian and Chilean Ambassadors that simultaneous action will be taken by their Congresses on July 28.	655
July 26 (84)	<i>From the Ambassador in Peru (tel.)</i> Information that project for establishing an Embassy in Santiago will be submitted to Congress on July 28, that Congress will act upon it after July 31, and that the President cannot name an Ambassador until the position has been legally created.	656
Aug. 1 (84)	<i>From the Ambassador in Chile (tel.)</i> Appointment of Emiliano Figueroa Larrain as Ambassador to Peru.	656
Aug. 7	<i>From the Peruvian Ambassador</i> Approval by Peruvian Congress of bill to create an Embassy in Chile.	656
Aug. 23 (97)	<i>From the Ambassador in Peru (tel.)</i> Foreign Minister's request for U. S. good offices for the formal <i>agrément</i> from Chilean Government for Cesar A. Elguera as Ambassador to Chile.	657
Aug. 25 (69)	<i>To the Ambassador in Peru (tel.)</i> Information from Chilean Ambassador that his Government is happy to accord <i>agrément</i> for Señor Elguera.	657
Oct. 8 (108)	<i>From the Chargé in Peru</i> Remarks of Chilean Ambassador on occasion of the presentation of his letters of credence on October 3, and reply of President Leguia (texts printed).	657
Oct. 8 (26)	<i>From the Ambassador in Chile</i> Remarks of Peruvian Ambassador on occasion of the presentation of his letters of credence on October 5, and reply of President Ibanez (texts printed).	659

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TACNA-ARICA DISPUTE: BEGINNING OF DIRECT NEGOTIATIONS BETWEEN CHILE AND PERU AT THE SUGGESTION OF THE UNITED STATES

Date and number	Subject	Page
1928 June 18 (60)	<i>From the Ambassador in Peru (tel.)</i> Opinion that time is now propitious for negotiations looking to settlement of Tacna-Arica boundary dispute between Chile and Peru.	660
Sept. 26 (75)	<i>To the Ambassador in Peru (tel.)</i> Belief that time is now propitious to inaugurate conversations looking to settlement of the Tacna-Arica question; instructions to try to ascertain from President Leguia how far he would be willing to go in the settlement of the matter.	661
Oct. 2	<i>Memorandum by the Assistant Secretary of State</i> Conversation, October 1, between the Secretary and the Chilean Ambassador, in which the latter agreed with suggestion that work of Tacna-Arica Boundary Commission be suspended while the Peruvian and Chilean Governments attempt by direct negotiations to reach a settlement.	662
Oct. 2 (77)	<i>To the Chargé in Peru (tel.)</i> Instructions to suggest to President Leguia that Boundary Commission suspend operations for a period of 4 months.	663
Oct. 3 (115)	<i>From the Chargé in Peru (tel.)</i> Acceptance by President Leguia of suggestion for suspension of Commission; his comment that the suspension will be regarded as a diplomatic victory by Chile.	664
Oct. 5	<i>Memorandum by the Assistant Secretary of State</i> Conversation, October 4, in which the Chilean Ambassador advised of his Government's agreement to suspension of Commission, and agreed to procedure suggested for such suspension.	664
Oct. 5 (79)	<i>To the Chargé in Peru (tel.)</i> Instructions to express to President Leguia the Secretary's appreciation for his action regarding suspension, and to inform him of the Secretary's inability to see why the postponement can be considered a diplomatic victory for either side, when it is merely a common-sense arrangement for promoting a settlement.	665
Oct. 8 (117)	<i>From the Chargé in Peru (tel.)</i> President Leguia's surprise that Chilean Ambassador has not yet requested an audience to discuss Tacna-Arica question, and his intention, if Ambassador does not do so soon, to take the initiative.	665
Oct. 8	<i>Memorandum by the Assistant Secretary of State</i> Conversation in which the Bolivian Minister expressed to the Secretary the concern of his Government that Chile and Peru might reach a settlement without participation of the United States and might at the same time conclude economic arrangements which would be very unfavorable.	666

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TACNA-ARICA DISPUTE: BEGINNING OF DIRECT NEGOTIATIONS BETWEEN CHILE
AND PERU AT THE SUGGESTION OF THE UNITED STATES—Continued

Date and number	Subject	Page
1928 Oct. 27 (121)	<i>From the Chargé in Peru (tel.)</i> Information from President Leguia concerning progress of his negotiations with Chilean Ambassador, in which the former stated that justice demanded return of the entire disputed territory to Peru, the Chilean Ambassador proposed a division, and President Leguia offered the further suggestion that the entire territory be placed under U. S. administration, but stated he would not accept Bolivian administration. Pessimistic attitude of Chilean Ambassador.	668
Oct. 29 (80)	<i>To the Chargé in Peru (tel.)</i> Instructions to advise President Leguia that the United States cannot assume any obligation to govern the territory either alone or jointly with another neutral country. Confidential opinion that division of the territory, with city of Arica being made a free port, would be a reasonable adjustment. (Instructions to repeat telegram No. 121 of October 27 and this telegram to the American Embassy in Chile.)	669
Nov. 1 (123)	<i>From the Chargé in Peru (tel.)</i> Information that on October 28 the Chilean Ambassador advised President Leguia of inacceptability of proposal for U. S. administration of the territory; the Chilean Ambassador's proposal for division of territory, with port of Arica to be administered by Chile; inability of President Leguia to accept this proposal.	670
Nov. 12 (126)	<i>From the Ambassador in Chile (tel.)</i> Declaration by Foreign Minister that nobody in Chile would accept agreement to give up city of Arica; willingness to give full commercial privileges to Peru in city of Arica; comment of Foreign Minister that he fears war if the Tacna-Arica question is not settled.	671

BOUNDARY DISPUTES

BOLIVIA AND PARAGUAY

1928 Feb. 4 (333)	<i>To the Chargé in Bolivia</i> Information that U. S. Government does not wish at the present time, while the Tacna-Arica controversy is still pending, to be placed in the position of undertaking to settle boundary dispute between Bolivia and Paraguay, either by arbitration or other procedure; instructions to keep this attitude in mind and be guided accordingly, since it is possible that the President or Foreign Minister may mention the matter. (Sent also, <i>mutatis mutandis</i> , on the same date to the Minister in Paraguay.)	672
Feb. 6 (412)	<i>To the Ambassador in Peru</i> Instructions in the sense of despatch No. 333 of February 4 to the Chargé in Bolivia, in view of President Leguia's suggestion to Bolivia and Paraguay that they seek U. S. assistance.	672

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BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 May 28 (285)	<i>From the Ambassador in Argentina</i> Resumption by Paraguayan and Bolivian Boundary Commissions of negotiations in Buenos Aires which were suspended in December 1927; information that divergences of opinion have arisen but that active negotiations are still in progress.	673
July 19 (339)	<i>From the Ambassador in Argentina</i> Suspension of Bolivian-Paraguayan negotiations in Buenos Aires on July 12, in view of inability to reach any definite agreement; statement issued on July 12 by the Bolivian and Paraguayan plenipotentiaries (text printed); Argentine proposals of December 1927 for settlement of the boundary question (text printed).	674
Sept. 10 (41)	<i>From the Minister in Bolivia (tel.)</i> Bolivian request that Department endeavor to obtain adhesion of Paraguay to the multilateral treaty for the renunciation of war, as such action would facilitate settlement of boundary question.	678
Oct. 12 [11?] (46)	<i>From the Minister in Bolivia (tel.)</i> Signature by Bolivia of the multilateral treaty. Information from the President and Acting Foreign Minister that Paraguay has violated the mutual understanding by constructing three forts in the disputed territory; and their request that the Department be notified in order that it may use its good influence with Paraguayan Minister in the hope of stopping construction; Minister's reply that he would convey message to the Department.	678
Oct. 12 (24)	<i>To the Minister in Bolivia (tel.)</i> Approval of reply to Bolivian officials; instructions to take no further action without definite authorization.	679
Oct. 12 (9)	<i>To the Minister in Paraguay (tel.)</i> Information from Bolivian Legation that Paraguayan troops are building fortresses near Bolivian fortresses; instructions to report any information without discussing matter with officials.	679
Oct. 16 (15)	<i>From the Minister in Paraguay (tel.)</i> Advice that information in Department's telegram No. 9 of October 12 is exaggerated, that so-called fortresses are only small observation outposts, and that all Paraguayan fortifications are in indisputable territory of Paraguay.	679
Dec. 6 (25)	<i>From the Minister in Paraguay (tel.)</i> Commencement of hostilities between Bolivian and Paraguayan soldiers near Paraguayan Fort Galpón, near which Bolivia has been constructing a fort. Desire of Paraguay that Washington invoke convocation of the Commission of Inquiry provided for in Gondra Treaty, and that Commission at Montevideo assume charge.	680
Dec. 7 (13)	<i>To the Minister in Paraguay (tel.)</i> Inability to invoke convocation of Commission of Inquiry because United States is not a party in the dispute; necessity for Paraguay, if it cares to do so, to take such action.	680

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BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Dec. 7 (26)	<i>From the Minister in Paraguay (tel.)</i> Information that Paraguayan official is en route to Montevideo to request officially that Uruguayan Government convoke Commission of Inquiry under Gondra Treaty; official Paraguayan note to Bolivia notifying of such action (excerpt printed); report of casualties resulting from conflict.	681
Dec. 8 (27)	<i>From the Minister in Paraguay (tel.)</i> Advice that Bolivia answered Paraguayan request for convocation of Gondra Commission by giving Paraguayan Minister at La Paz his passport, and that Paraguay will give Bolivian Minister his passport the next day.	681
Dec. 9	<i>From President Guggiari to President Coolidge (tel.)</i> Notification that in reply to his Government's request for convocation of Gondra Commission, the Bolivian Government delivered passport to the Paraguayan Chargé at La Paz.	682
Dec. 9 (31)	<i>To the Chargé in Bolivia (tel.)</i> Concern over Bolivian-Paraguayan situation; Department's hesitation to make suggestion, since Argentine Government has been mediating question for many months. Instructions to advise of Bolivia's attitude in regard to Paraguayan request for convocation of Gondra Commission.	682
Dec. 9 (62)	<i>To the Ambassador in Argentina (tel.)</i> Transmittal of copy of telegram No. 31 of December 9 to Bolivia; instructions to telegraph views as to whether any suggestion from U. S. Government to Bolivian Government that it accept constitution of Gondra Commission would be misunderstood in Argentina, and to advise what action, if any, Argentine Government contemplates.	682
Dec. 9 (28)	<i>From the Minister in Paraguay (tel.)</i> Belief that U. S. Government should counsel Bolivia to accept provisions of the Gondra Treaty.	683
Dec. 10 (56)	<i>From the Chargé in Bolivia (tel.)</i> Bolivian attitude that investigation by Gondra Commission would be incompatible with the dignity of Bolivia in view of the unprovoked aggression by Paraguay; that question is under the Gutierrez-Diaz Leon protocol; and that conciliation will be refused which does not include prior and full reparation to Bolivian sovereignty and dignity.	683
Dec. 10 (93)	<i>From the Ambassador in Argentina (tel.)</i> Impression that the Argentine President would not desire the U. S. Government to advise either party to accept his offer to act as friendly adviser in solution of problem; suggestion that any U. S. action be along lines of urging both Governments to find a way of settling their differences amicably.	684
Dec. 10 (64)	<i>To the Ambassador in Argentina (tel.)</i> Passage by Conference of Conciliation and Arbitration at inaugural session in Washington of a resolution regarding Bolivian-Paraguayan difficulty; importance of being advised what action, if any, is being taken by Argentina.	684

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BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Dec. 10	<p><i>From the Chairman of the International Conference of American States on Conciliation and Arbitration to the Bolivian Acting Minister for Foreign Affairs (tel.)</i></p> <p>Resolution expressing hope that Bolivia and Paraguay will settle their present differences pacifically, and providing for committee to report to Conference with respect to conciliatory action to cooperate with the instrumentalities now employed in the friendly solution of the problem (text printed).</p> <p>(Sent also, on the same date, to the Paraguayan Minister for Foreign Affairs.)</p>	685
Dec. 11 (65)	<p><i>To the Ambassador in Argentina (tel.)</i></p> <p>Nonintention of U. S. Government to take any independent action; advice that the only action taken has been the forwarding by Conference of the resolution of December 10, which the Secretary of State signed as Chairman of the Conference.</p>	685
Dec. 11 (119)	<p><i>From the Minister in Switzerland (tel.)</i></p> <p>Adoption by League of Nations Council of resolution directing dispatch to Paraguayan and Bolivian Governments of identical notes recalling their obligations under the Covenant to settle their differences by pacific means; observation that the Council endeavored to frame the message to avoid any contravention of the Monroe Doctrine or conflict with possible action on the part of the United States.</p>	686
Dec. 11	<p><i>From the Paraguayan Minister for Foreign Affairs to the Chairman of the International Conference of American States on Conciliation and Arbitration (tel.)</i></p> <p>Acknowledgment of message of December 10, stating that Paraguay is and has always been disposed to submit the settlement of her difficulties to legal means.</p>	686
Dec. 11	<p><i>From the Bolivian President and the Acting Minister for Foreign Affairs to the Chairman of the International Conference of American States on Conciliation and Arbitration (tel.)</i></p> <p>Acknowledgment of message of December 10, stating that Bolivia requires satisfaction for Paraguayan aggression, and that there exist commitments between Bolivia and Paraguay to accept an arbitration at law from which Bolivia will not deviate.</p>	687
Dec. 11 (29)	<p><i>From the Minister in Paraguay (tel.)</i></p> <p>Opinion of the diplomatic corps that only the U. S. Government could cause Bolivia to recognize its treaty obligations.</p>	688
Dec. 12 (30)	<p><i>From the Minister in Paraguay (tel.)</i></p> <p>Feeling of Paraguayan Minister for Foreign Affairs that war is imminent unless the United States acts to prevent it.</p>	688
Dec. 12	<p><i>To President Guggiari (tel.)</i></p> <p>Expression of hope that difficulty between Paraguay and Bolivia will soon be settled to the satisfaction of both parties.</p>	689
Dec. 12 (33)	<p><i>To the Minister in Bolivia (tel.)</i></p> <p>Instructions to advise immediately what measures are being taken to bring about a settlement, and whether the Argentine Government has taken any action to compose the present difficulty.</p>	689

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BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Dec. 12 (66)	<i>To the Ambassador in Argentina (tel.)</i> Inquiry whether Argentina is exerting her good offices or is mediating in this question.	689
Dec. 12 (14)	<i>To the Minister in Paraguay (tel.)</i> Information that because Gondra Treaty has not been ratified by Bolivia and hence is not in effect between that country and Paraguay, nor is the Kellogg Pact in force, neither treaty can be invoked. Instructions to advise immediately what measures are being taken to bring about a settlement, and whether the Argentine Government has taken any action to compose the present difficulty.	690
Dec. 12 (95)	<i>From the Ambassador in Argentina (tel.)</i> Declaration by the Foreign Minister that Argentina is doing nothing in the way of mediation and has no objection to any action which Conference may take.	690
Dec. 13 (34)	<i>To the Minister in Bolivia (tel.)</i> Understanding that the special committee will recommend to the Conference on December 14 that the Conference tender its good offices to the Bolivian and Paraguayan Governments for the purpose of aiding them in providing conciliatory measures looking to the avoidance of conflict and maintenance of peace; instructions to so inform the President, expressing the Secretary's hope that nothing will be done to make abortive the tender of good offices. (Dispatch of similar message to the Minister in Paraguay.)	690
Dec. 14 (61)	<i>From the Minister in Bolivia (tel.)</i> President's intention upon receipt of tender of good offices, to call Cabinet meeting and use all influence for peaceful solution; Bolivian Government's request for Department's attitude toward League offer of mediation.	691
Dec. 14 (32)	<i>From the Minister in Paraguay (tel.)</i> Foreign Office note (text printed) stating accord with Secretary's hope that anticipated tender of good offices by Conference will be accepted; information that European intervention is not desired.	691
Dec. 14 (36)	<i>To the Minister in Bolivia (tel.)</i> Information that, since the Conference has voted to offer its good offices and Secretary of State is the Chairman, he does not desire to suggest anything which might interfere with action of the Conference or acceptance of its good offices by Bolivia.	692
Dec. 14	<i>From the Chairman of the International Conference of American States on Conciliation and Arbitration to the Bolivian Minister for Foreign Affairs (tel.)</i> Report of the special commission and resolution regarding tender of good offices to Bolivia and Paraguay (text printed).	693
Dec. 16 (34)	<i>From the Minister in Paraguay (tel.)</i> Report of attacks by Bolivian troops and airplane; information that Paraguayan troops withdrew in obligation not to provoke hostilities, and that, in view of attacks, Paraguayan President has ordered all citizens 18 to 28 years of age to report for duty.	694

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BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Dec. 16 (35)	<i>From the Minister in Paraguay (tel.)</i> Information that Cabinet is now considering good offices of the Conference. Opinion that certain strong measures must be taken immediately toward Bolivia, because Paraguay cannot stand idle in face of an invasion; observation that present situation is very grave.	694
Dec. 16 (36)	<i>From the Minister in Paraguay (tel.)</i> Acceptance by Paraguay of offer of good offices of Conference. U. S. Minister's belief that forceful measures must be employed against aggression or Paraguay will be invaded; report of another Bolivian attack in locality near American properties.	695
Dec. 17 (62)	<i>From the Minister in Bolivia (tel.)</i> Report that Bolivia will accept good offices of the Conference within 48 hours; plan on which Bolivia would be willing to submit present differences (summary printed).	695
Dec. 17	<i>From the Paraguayan Minister for Foreign Affairs to the Chairman of the International Conference of American States on Conciliation and Arbitration (tel.)</i> Acceptance of tender of good offices.	696
Dec. 18	<i>From the Bolivian Minister for Foreign Affairs to the Chairman of the International Conference of American States on Conciliation and Arbitration (tel.)</i> Acceptance of tender of good offices.	697
Dec. 18 (419)	<i>From the Chargé in France (tel.)</i> Receipt from Foreign Minister Briand, in his capacity as President of the League Council, of information concerning efforts of the League to settle Bolivian-Paraguayan differences and copy of League memorandum (text printed), which expresses the hope that the Chairman of Conference on Conciliation and Arbitration will advise views as to the best measures to be taken by all those who are endeavoring to insure a pacific settlement.	698
Dec. 20 (427)	<i>From the Chargé in France (tel.)</i> Receipt from M. Briand of congratulations on successful outcome of the Bolivian-Paraguayan situation; Chargé's interpretation that his message indicates that with the cessation of hostilities and acceptances of good offices of Conference, League's part in matter has come to an end; indication by Briand that no reply to his message would appear necessary, but Chargé's presumption that some acknowledgment is desired.	700
Dec. 21 (430)	<i>To the Chargé in France (tel.)</i> Advice that since good offices of Conference have been accepted, no further observations would appear to be required.	700

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BOUNDARY DISPUTES—Continued

COLOMBIA AND NICARAGUA

Date and number	Subject	Page
1928 Feb. 4 (67)	<i>From the Minister in Nicaragua (tel.)</i> Telegram to Assistant Secretary of State at Habana (text printed), stating that, at the request of Colombian Minister, the U. S. Minister repeated to Nicaraguan President his previous statement that the Department viewed with favor a settlement of Colombian-Nicaraguan boundary matter along the lines proposed by Colombia, and that the President acceded to settlement as proposed.	701
Mar. 23 (333)	<i>To the Minister in Nicaragua</i> Transmittal of draft treaty which will be proposed by Colombian Minister in Nicaragua; authorization to state, if consulted by Nicaraguan Government, that the U. S. Government favors proposed treaty and hopes that it will receive approval of the Nicaraguan Government.	701
Mar. 27 (634)	<i>From the Minister in Nicaragua</i> Treaty between Colombia and Nicaragua, signed March 24 (text printed), recognizing Nicaraguan sovereignty over the Mosquito Coast and Great and Little Corn Islands and Colombian sovereignty over San Andrés Archipelago; desire of Nicaraguan Government that signature of treaty be kept secret because Liberals would probably use treaty as political weapon if its contents were known before Presidential elections. (Footnote: Exchange of ratifications at Managua, May 5, 1930.)	702
Sept. 14 (342)	<i>From the Minister in Nicaragua (tel.)</i> Information that Liberals have learned of signature of treaty and are attacking administration; desire of the President that the Department inform press that boundary dispute was settled through U. S. good offices and as a result of suggestions made by the Department to the Nicaraguan Government; probability that treaty will never be ratified by Nicaragua if permitted to become party issue now.	704
Sept. 15 (180)	<i>To the Minister in Nicaragua (tel.)</i> Inquiry whether treaty text has been published in Managua.	704
Sept. 15 (55)	<i>To the Minister in Colombia (tel.)</i> Inquiry whether treaty text has been made public in Colombia.	704
Sept. 16 (94)	<i>From the Minister in Colombia (tel.)</i> Report that text has not been made public but that President publicly stated the general provisions of treaty in recent annual message to Congress.	705
Sept. 19 (347)	<i>From the Minister in Nicaragua (tel.)</i> Intention of President to publish treaty on September 22; his desire for announcement by Department at the same time regarding negotiations which led up to signature.	705
Sept. 20 (349)	<i>From the Minister in Nicaragua (tel.)</i> Desire for authorization not only to furnish press with copy of Department's statement concerning the negotiations but also to state orally that the United States has no intention of acquiring the San Andrés Islands for itself.	705

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BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Sept. 21 (187)	<i>To the Minister in Nicaragua (tel.)</i> Statement to press conference regarding the Nicaraguan-Colombian treaty negotiations (text printed); authorization to give out same statement as well as to say orally that United States has no intention of acquiring the islands for itself.	705

DOMINICAN REPUBLIC AND HAITI

1928 Jan. 14 (8)	<i>From the Minister in the Dominican Republic (tel.)</i> Likelihood that informal conversations now in progress will result in exchange of notes agreeing to settle Dominican-Haitian boundary question on the basis of the <i>status quo</i> line, with minor adjustments involving mutual territorial cessions to be made after the exchange of notes.	706
Feb. 20 (790)	<i>From the Minister in the Dominican Republic</i> Notes of January 20 and 21 exchanged on February 13 between the Dominican Foreign Minister and Haitian Minister expressing desire to undertake settlement of the boundary question (texts printed).	706
Mar. 9 (811)	<i>From the Minister in the Dominican Republic</i> Report that informal agreement has been reached as to the boundary line.	709
May 26 (908)	<i>From the Minister in the Dominican Republic</i> Report that with the settlement of one remaining point of difficulty, informal agreement will again have been reached with regard to the entire boundary.	710
July 30 (45)	<i>From the Chargé in the Dominican Republic (tel.)</i> Signature of informal agreement on boundary question.	711
July 31 (16)	<i>To the Chargé in the Dominican Republic (tel.)</i> Instructions to express to President and Foreign Minister, when boundary agreement is made public, congratulations of the Secretary of State on the peaceful settlement of the long-standing dispute. (Identical instructions to the Legation in Haiti on the same date.)	711
Nov. 13 (1091)	<i>From the Minister in the Dominican Republic</i> Transmittal of copy of the projected Dominican-Haitian boundary treaty. (Footnote: Signature of treaty at Santo Domingo, January 21, 1929.)	711

GUATEMALA AND HONDURAS

1928 Feb. 10	<i>From the Guatemalan Legation</i> Information that the Guatemalan Government is again protesting to the Honduran Government against violations of the <i>status quo</i> in disputed territory, and particularly against railway construction between Cacao and Chachagualillo.	712
Feb. 11 (13)	<i>To the Minister in Honduras (tel.)</i> Instructions to investigate Guatemalan claims, especially as to alleged railway construction in disputed territory.	713

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BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Feb. 13 (26)	<i>From the Minister in Honduras (tel.)</i> Report that Cuyamel Fruit Company has constructed beyond Cacao and without authority 400 meters of tram line, and that despite fact that Honduran Government considers this as Honduran territory and not in dispute, President Paz has ordered company to suspend all construction work in that region.	713
Feb. 13 (27)	<i>From the Minister in Honduras (tel.)</i> Invasion by Guatemalan force of territory near Chachagualillo and capture of guard there; Honduran protest to Guatemala, with request for immediate restoration of Honduran force and withdrawal of Guatemalan force.	714
Feb. 14	<i>From the Honduran Acting Minister for Foreign Affairs (tel.)</i> Desire for influence and mediation of the Department toward restoration of the <i>status quo ante</i> between Honduras and Guatemala by withdrawal of the invasion forces; willingness to accept later a well-defined neutral line to be surveyed and fixed by U. S. Government pending settlement of the boundary dispute.	714
Feb. 14 (28)	<i>From the Minister in Honduras (tel.)</i> Receipt by Foreign Minister of telegram dated February 13 from the Guatemalan Foreign Minister stating disposition to order evacuation of Chachahualia provided Honduran Government will agree not to reoccupy it and will respect <i>status quo</i> in disputed zone until agreement on boundary line shall have been reached; Minister's understanding that proposal regarding non-reoccupation is not acceptable.	715
Feb. 15 (29)	<i>From the Minister in Honduras (tel.)</i> Intention of President to send Acting Foreign Minister to investigate alleged railway construction work after withdrawal of Guatemalan forces from Chachahualia; his inquiry whether U. S. military attaché might accompany Coello; his invitation to Guatemalan Minister to participate.	715
Feb. 16	<i>To the Honduran Acting Minister for Foreign Affairs (tel.)</i> Hope that difficulties are now in a way to be satisfactorily adjusted; belief that chief difficulty is lack of a definite understanding as to the exact nature of the <i>status quo</i> and the extent of the territory in dispute; assurance that the Department will be glad to lend its good offices in any way acceptable to both parties in an effort to bring about a satisfactory arrangement.	716
Feb. 21 (15)	<i>To the Minister in Honduras (tel.)</i> Information that the Honduran Legation has requested opinion concerning arrangement it contemplates proposing to Guatemala: (1) inspection of disputed territory to determine for time being a better-defined line, (2) agreement to proceed without delay to a final settlement of boundary dispute, and (3) obligation to submit matter to United States for arbitration if no agreement is reached under (2). (Repeated to the Minister in Guatemala.)	716
Undated [Rec'd Feb. 28]	<i>From the Honduran Acting Minister for Foreign Affairs (tel.)</i> Allegation that Guatemala appears on new pretexts to defer indefinitely the question of settlement of the boundary dispute; request for U. S. good offices so that the dispute may finally be settled.	717

GENERAL

BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Feb. 29 (14)	<i>To the Minister in Guatemala (tel.)</i> Instructions to ascertain why no reply has been made to the Honduran proposal, and to mention that the Department desires sincerely that Guatemala accept proposal for inspection of disputed territory and agreement to proceed to a final settlement.	718
Mar. 9 (19)	<i>To the Minister in Guatemala (tel.)</i> Concern of Honduras that Guatemala has not yet replied to proposal. Secretary's inability to reply to telegram from Acting Foreign Minister of Honduras until he has further information regarding Guatemalan attitude and willingness to settle boundary dispute through negotiation; instructions to report present situation.	719
Mar. 10 (19)	<i>From the Minister in Guatemala (tel.)</i> Telegram from Acting Foreign Minister to Guatemalan Minister in Washington (text printed) instructing him to inform Secretary of State that Guatemala desires mediation, is agreeable to sending commission to inspect territory and fix provisional line, and is disposed to discuss final settlement as soon as provisional line is established.	720
Mar. 15	<i>Memorandum by the Chief of the Division of Latin American Affairs</i> Conversation with the Guatemalan Minister in which the Chief of the Latin American Division made personal suggestion that procedure for commission would be greatly simplified if Guatemala and Honduras would act in accordance with the Central American convention of 1923 establishing commissions of inquiry.	720
Mar. 15 (40)	<i>From the Minister in Honduras (tel.)</i> Request by President Paz that U. S. Minister confirm Honduran willingness that commission of inspection be sent to the border, composed of Subsecretaries of Foreign Affairs and an engineer from each of the countries, and a representative of the mediator government.	722
Mar. 17 (23)	<i>To the Minister in Honduras (tel.)</i> Information that the U. S. Government will appoint a representative to accompany Honduran and Guatemalan commissioners; instructions to take up question of prompt appointment of commissioners and question as to where commission should meet to undertake the work. (Similar telegram to Guatemala.)	722
Mar. 19 (41)	<i>From the Minister in Honduras (tel.)</i> Communication of names of Honduran commissioners; Guatemalan suggestion that Commission meet first at Cuyamel.	723
Mar. 19 (23)	<i>From the Minister in Guatemala (tel.)</i> Information as to personnel of Guatemalan representation; lack of decision as to time and place for meeting.	723
Mar. 20 (1)	<i>To the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i> Notification of appointment as American member of Commission; instructions as to conduct. (Footnote: The American representative was Mr. Roy T. Davis, U. S. Minister in Costa Rica.)	723

GENERAL
BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Mar. 20 (25)	<i>To the Minister in Honduras (tel.)</i> Instructions to advise Honduran Government of the appointment of American representative.	725
Mar. 20 (25)	<i>To the Minister in Guatemala (tel.)</i> Instructions to inform the Guatemalan Foreign Office that Honduras has appointed representatives and to inquire whether place and date of proposed meeting are satisfactory; also to announce the appointment of the American representative.	725
Mar. 20 (7)	<i>To the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i> Advice that time and place of meeting will be communicated later; instructions to be prepared to leave on short notice.	726
Mar. 20 (24)	<i>From the Minister in Guatemala (tel.)</i> Communication of names of Guatemalan commissioners; Guatemalan suggestion that first meeting place be Puerto Barrios or Puerto Cortes.	726
Mar. 20	<i>From the Honduran Minister for Foreign Affairs (tel.)</i> Appreciation for U. S. good offices; Honduran intention that Commission shall agree upon a provisional line, and if unable to agree, that the line shall be indicated by representative of mediator government while negotiations for final settlement proceed immediately.	726
Mar. 21 (25)	<i>From the Minister in Guatemala (tel.)</i> Acceptability to Guatemala of Cuyamel as meeting place.	727
Mar. 21 (26)	<i>To the Minister in Guatemala (tel.)</i> Instructions to inquire whether Guatemala agrees to Honduran suggestion for indication of provisional line by the American representative in case the Commission is unable to agree upon the line.	727
Mar. 22 (26)	<i>From the Minister in Guatemala (tel.)</i> Information that the matter will be considered by the Cabinet at a special meeting.	728
Mar. 22 (28)	<i>From the Minister in Guatemala (tel.)</i> Note from Acting Minister of Foreign Affairs (text printed), advising acceptance of suggestion for indication of provisional line, with certain reservations regarding Guatemalan rights.	728
Mar. 23 (27)	<i>To the Minister in Honduras (tel.)</i> Transmittal of text of Guatemalan Foreign Office note contained in telegram No. 28 of March 22 from the Minister in Guatemala, with instructions to communicate to the Foreign Minister.	728
Mar. 23 (8)	<i>To the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i> Transmittal of Honduran suggestion regarding designation of provisional line by American representative and Guatemalan acceptance contained in telegram No. 28, of March 22, from the Minister in Guatemala; information that the Department is taking up matter of detailing a Canal Zone engineer to assist the American representative.	729

GENERAL

BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Mar. 27 (45)	<i>From the Minister in Honduras (tel.)</i> Note from Foreign Minister, March 26 (text printed), advising that qualified acceptance by Guatemala has been noted, that Honduran Government abstains from making any declarations at the present time, but that it rejects Guatemalan accusation of Honduran incursions into Guatemalan territory. (Repeated to Guatemala.)	729
Mar. 28 (28)	<i>To the Minister in Guatemala (tel.)</i> Instructions to communicate the Honduran reply to the Guatemalan Government.	730
Mar. 29 (11)	<i>To the Representative of the United States on the Guatemalan-Honduran Boundary Commission</i> Information that the Department is advising Guatemala and Honduras that the American representative plans to arrive at Puerto Cortes on April 4 and is suggesting that the first meeting of Commission take place at Cuyamel on April 6.	730
Apr. 5 (1)	<i>From the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i> Arrival at Puerto Cortes; plan of Commission to proceed to Cuyamel the following day. Inquiry whether Department considers essential permanent arbitration by a North American or whether arbitration by the Central American Tribunal established by treaties of 1923 would be acceptable.	730
Apr. 7	<i>From the Guatemalan-Honduran Boundary Commission (tel.)</i> Expression of gratitude for U. S. cooperation in the boundary matter.	731
Apr. 8 (2)	<i>From the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i> Report that the Commission met and organized April 7, electing American representative President; summary of informal conferences in which Honduran and Guatemalan representatives stated their territorial claims; advice that conciliatory spirit is lacking.]	731
Apr. 9 (1)	<i>To the Consul at Puerto Cortes (tel.)</i> For Davis: Instructions to inform colleagues that their telegram is greatly appreciated.	732
Apr. 10 (2)	<i>To the Consul at Puerto Cortes (tel.)</i> For Davis: Department's favorable attitude toward definitive arbitration by the Central American Tribunal.	732
Apr. 13 (3)	<i>From the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i> Improbability that Honduran and Guatemalan commissioners will establish provisional line by mutual accord; conviction that the only means of avoiding future conflicts is by permanent arbitration; plan of American representative to propose formally at session on April 18 that the two Governments through their Commissions agree to nominate special plenipotentiaries to meet in Washington or other neutral country to consider proposals for arbitration or mutual agreement; desire that Department instruct the two Legations concerned to make strong representations in favor of this proposal.	733

GENERAL

BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Apr. 16 (3)	<p><i>To the Consul at Puerto Cortes (tel.)</i></p> <p>For Davis: Belief that if Guatemala will make some compromise to meet compromise already offered by Honduras, it should be possible to bring the two delegations into accord; opinion that if both countries are prepared to submit question to Central American Tribunal, the Commission now in session might well be empowered to draw up the necessary agreement; preference, however, for present Commission to work out and put into effect some constructive agreement.</p>	734
Apr. 18 (5)	<p><i>From the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i></p> <p>Information that Commissioners are unable to agree and have filed signed statements calling upon the mediator to fix a provisional line; desire that Department instruct Legations in Guatemala and Honduras to make representations urging that respective Commissions be empowered to draw up treaty submitting controversy to final arbitration; intention to make arbitration proposal at meeting on April 23.</p>	735
Apr. 19	<p><i>To the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i></p> <p>Telegram to Legations in Guatemala and Honduras (text printed), advising contents of American representative's telegram No. 5 of April 18, and instructing that representations be made upon notification that American representative has made his proposal.</p>	736
Apr. 20 (6)	<p><i>From the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i></p> <p>Suggestions by Guatemalan Commissioner for settling boundary controversy (summary printed); information that Honduran Commission refuses to consider settlement along those lines.</p>	737
Apr. 23 (8)	<p><i>From the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i></p> <p>Advice that Guatemalan representations (excerpt printed) against Honduran case indicate they will use their conditional acceptance of mediation as a basis for refusing to accept a provisional line which is not in accord with Guatemalan aspirations.</p>	738
Apr. 23 (9)	<p><i>From the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i></p> <p>Decision of Commission to recess subject to call of the American representative; information that American representative made his proposal for negotiation of an arbitration convention and both Commissions agreed to consult their Governments.</p> <p>(Repeated to Guatemala and Honduras.)</p>	739
Apr. 24 (52)	<p><i>From the Minister in Honduras (tel.)</i></p> <p>Honduran instructions to Commission to accept American representative's proposal.</p> <p>(Repeated to American representative and Legation in Guatemala.)</p>	740

GENERAL

BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Apr. 24 (51)	<i>From the Minister in Guatemala (tel.)</i> Intention of Guatemalan Government to do nothing until its Commissioners have returned and reported; disposition of Foreign Minister to negotiate very extensively before entering into a final treaty of arbitration. (Repeated to American representative and Legation in Honduras.)	740
Apr. 25 (6)	<i>To the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i> Instructions not to make formal commitment to draw a provisional line.	740
May 11 (31)	<i>From the Representative of the United States on the Guatemalan-Honduran Boundary Commission (tel.)</i> Communication from Honduran Foreign Minister protesting Guatemalan activities in boundary zone and asking the American representative to take steps to prevent constant aggressions (text printed); American representative's instruction to Legation in Honduras to acknowledge receipt, advising that matter should be referred to Department (text printed).	741
May 14 (38)	<i>To the Minister in Honduras (tel.)</i> Instructions to make representations to Government to which accredited that disturbing incidents in disputed territory be avoided while further steps toward settlement of boundary question are under consideration. (Sent also to the Minister in Guatemala.)	742
May 16 (62)	<i>From the Minister in Honduras (tel.)</i> Memorandum from Foreign Minister (text printed), advising complete confidence in American representative, hope that American representative will be able to lay down provisional line, and policy to give no cause for disturbances in disputed zone, despite continuance of Guatemalan activities. (Repeated to Guatemala and Salvador.)	742
May 17 (43)	<i>To the Minister in Guatemala (tel.)</i> Instructions to inquire of Guatemalan Government what its answer is to American representative's proposal.	743
May 17 (63)	<i>From the Minister in Guatemala (tel.)</i> Information from President Paz that there is no reason to apprehend any serious incident in disputed territory. (Repeated to Tegucigalpa.)	743
May 19 (65)	<i>From the Minister in Guatemala (tel.)</i> Submission to Cabinet for formal action of Guatemalan reply to American representative's proposal, which reply states that Assembly authorization is required before boundary treaty can be negotiated and sets forth lengthy argument of Guatemalan case; information that Minister does not concur in interpretation of the Constitution and has requested conference to discuss matter.	744
May 23 (69)	<i>From the Minister in Guatemala (tel.)</i> Receipt of Guatemalan memorandum omitting reference to Assembly authorization, setting forth Guatemalan case, and concluding with statement that Boundary Commission will be authorized to enter into conversations upon a treaty of arbitration which contemplates a frontier protecting the rights and economic, commercial, and political necessities of Guatemala.	744

GENERAL

BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 May 23 (70)	<i>From the Minister in Guatemala (tel.)</i> Suggestion by President that Washington or San José de Costa Rica would be acceptable places for next boundary conference.	745
May 25 (45)	<i>To the Minister in Guatemala (tel.)</i> Information that American representative has reported that he discussed various possible boundary lines with Commission but that he never formally proposed as mediator any of the lines that were discussed.	745
June 4 (51)	<i>To the Minister in Guatemala (tel.)</i> Note for Foreign Minister (text printed), proposing that the boundary question be submitted to Central American Tribunal, that Tribunal be empowered to fix definitive line, and that existing Commission, now in recess, be convened by Chairman to draw up and sign necessary protocol covering submission of question to Tribunal. (Sent also to Legation in Honduras.)	746
June 6 (71)	<i>From the Minister in Honduras (tel.)</i> President's instructions to Foreign Minister to accept Secretary of State's proposal. (Repeated to Guatemala.)	747
June 7 (78)	<i>From the Minister in Guatemala (tel.)</i> Note from Foreign Minister (excerpt printed), stating acceptance of Secretary of State's proposal. (Repeated to Legation in Honduras.)	747
June 11 (81)	<i>From the Minister in Guatemala (tel.)</i> Desire of Foreign Minister to be advised of names of 15 jurists submitted by the United States for permanent list from which members of Tribunal are to be chosen; also those communicated under the convention to the Honduran Foreign Office by other signatories including Honduras. (Repeated to Honduras.)	748
June 12 (73)	<i>From the Minister in Honduras (tel.)</i> Honduran note (excerpt printed) inquiring whether, since a definite obligation for arbitration under President of the United States exists as a result of negotiations in 1923, the proposed arbitration by the Central American Tribunal would be precluded. (Repeated to Guatemala and Salvador.)	749
June 15 (50)	<i>To the Minister in Honduras (tel.)</i> Opinion that because no protocol was executed to make 1923 agreement effective, arbitration by Central American Tribunal is not precluded; instructions to so advise Foreign Minister.	750
June 18 (88)	<i>From the Minister in Guatemala (tel.)</i> Submission of boundary question to Assembly.	751
June 25 (78)	<i>From the Minister in Honduras (tel.)</i> Note from Foreign Minister (text printed) suggesting that the U. S. Government consider directing its efforts toward the formalization of the protocol required to make the 1923 agreement effective, and advising that reply to this suggestion will be awaited before sending definite reply to Secretary of State's proposal regarding arbitration by Central American Tribunal.	751

GENERAL

BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 June 28 (264)	<i>From the Minister in Nicaragua (tel.)</i> Transmittal by Nicaraguan Government to Honduran Government of names of national and non-national judges on Central American Tribunal. (Repeated by the Department on June 29 to the Ministers in Guatemala and Honduras.)	753
July 10 (58)	<i>To the Minister in Honduras (tel.)</i> Information that existence of other agreements has not been in the past and should not now be considered an obstacle to another course of action which promises solution of the difficulty; instructions to convey this information to the Foreign Minister and express the hope that the Honduran Government will soon signify its agreement on proposal to submit dispute to arbitration of Central American Tribunal.	753
July 17 (95)	<i>From the Minister in Guatemala (tel.)</i> Passage by Assembly of bill authorizing submission of boundary question to Central American Tribunal. (Repeated to Honduras.)	754
July 20 (65)	<i>To the Minister in Honduras (tel.)</i> Conversation with the Honduran Minister, July 17, in which the Secretary corrected misinterpretation that boundary question would be decided purely on political, economic, and commercial considerations and also explained that the Honduran objection to Nicaraguan panel of judges on political grounds might possibly be met by selecting from the Costa Rican-Nicaraguan panels judges who would not be Nicaraguans or even Central Americans at all. Instructions to explain these matters to Honduran Government. (Copy to Guatemala.)	755
July 25 (89)	<i>From the Minister in Honduras (tel.)</i> Issuance of Executive decree, July 24, dissolving Boundary Commission on ground that in view of new U. S. proposals now being considered, there is no longer reason for existence of Commission. (Repeated to Guatemala.)	756
July 26 (91)	<i>From the Minister in Honduras (tel.)</i> Belief of President Paz that Guatemala is preparing to occupy Honduran territory east of the Motagua River; his insistence that U. S. Minister inquire if Department would use its good offices to prevent such action on part of Guatemala. (Repeated to Guatemala.)	756
July 27 (98)	<i>From the Minister in Guatemala (tel.)</i> Possibility that dissolving of Honduran Boundary Commission may cause Guatemala to take position that this constitutes a premature termination of the agreement that mediating government may propose a provisional line. (Repeated to Honduras.)	756
July 27 (67)	<i>To the Minister in Honduras (tel.)</i> Desire for report as to motives which impelled Honduras to dissolve its Boundary Commission.	757

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BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 July 27 (68)	<i>To the Minister in Honduras (tel.)</i> Instructions to inform Honduran Government that Nicaraguan panel was appointed in 1923 and that this fact should dispel Honduran objections on political grounds. Instructions to report status of proposal for arbitration by Central American Tribunal.	757
July 27 (62)	<i>To the Minister in Guatemala (tel.)</i> Instructions to inform Guatemalan Government of Honduran apprehensions as to aggressive action and to point out importance of avoiding the appearance of such action. (Repeated to Honduras.)	757
July 30 (666)	<i>From the Minister in Honduras</i> Opinion that real reason for delay in accepting arbitration by the Central American Tribunal is reluctance to bind the country to a decision which it does not believe will be a just one.	758
July 30 (668)	<i>From the Minister in Honduras</i> Memorandum from the Foreign Minister, dated July 25 (text printed), advising that the Boundary Commission was dissolved because the Honduran Government considers its mission had terminated with the failure to reach ends for which appointed and with the consideration of a new proposal. Information that U. S. Minister stated that in his opinion the decree dissolving the Commission was unnecessary.	760
July 31 (94)	<i>From the Minister in Honduras (tel.)</i> Note of July 27 from the Foreign Minister (excerpt printed), stating regret that Honduran Government is unable to accept arbitration in the form proposed by the Secretary of State, at the same time declaring intention to accept any other arbitration under President or Chief Justice of the United States or any other tribunal established in regular and permanent form. (Repeated to Guatemala.)	760
Aug. 6 (102)	<i>From the Minister in Guatemala (tel.)</i> Receipt from Guatemalan Foreign Minister of note sent to Honduran Foreign Minister, August 4, stating that if Honduran Government by issuing decree has put an end to the functions of the Mixed Commission, the Guatemalan Government records its formal protest.	764
Aug. 6 (70)	<i>To the Minister in Honduras (tel.)</i> Note for Foreign Minister (text printed), stating disappointment at Honduran decision not to accept the proposal made by the Secretary of State, commenting on certain of the grounds mentioned in Honduran note as basis for refusal, and expressing hope that careful reconsideration will be given to the matter.	765
Aug. 8 (72)	<i>To the Minister in Honduras (tel.)</i> Hope that nothing in Honduran reply to Guatemalan note may tend to precipitate a break between the two countries; that Honduran decree was not issued for purpose of withdrawing permanently from existing Mixed Commission; and that Honduras is prepared to appoint a representative on the Commission should there be further business for the Commission to transact. Instructions to convey this information to the Foreign Minister.	768

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BOUNDARY DISPUTES—Continued

Date and number	Subject	Page
1928 Aug. 8 (63)	<i>To the Minister in Guatemala (tel.)</i> Belief that Guatemalan note of August 4 indicates desire to have American representative lay down a provisional line; information that while the Department has not yet reached a decision, it feels that the American representative should not undertake to lay down a provisional line unless unhampered by reservations by either side and unless both countries are committed unreservedly to accept such a line.	768
Aug. 17 (98)	<i>From the Minister in Honduras (tel.)</i> Information that the Honduran reply to Guatemalan note was dispatched August 16 and is unprovocative and mild in tone.	769
Aug. 23 (103)	<i>From the Minister in Honduras (tel.)</i> Note from Foreign Minister, dated August 22 (text printed), stating that he must again regretfully decline to reconsider the Secretary of State's proposal. (Repeated to Guatemala.)	769
Aug. 23 (105)	<i>From the Minister in Guatemala (tel.)</i> Memorandum signed by Foreign Minister and U. S. Minister on August 22 (text printed), stating that Guatemalan President and Foreign Minister declared confidentially to the U. S. Minister that in case Honduras should propose that the President of the United States or the Chief Justice preside over the Central American Tribunal in accordance with the proposal made by the Secretary of State in June 1928, Guatemala would accept.	773
Aug. 30 (81)	<i>To the Minister in Honduras (tel.)</i> Decision that, in view of last Honduran note, no useful purpose will be served by pursuing the correspondence further at the present time; observations concerning the situation.	773

GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA

PAN AMERICAN AIRWAYS, INCORPORATED

1928 Feb. 16	<i>From the Pan American Airways, Inc.</i> Plans for flight to survey feasible airway route from Key West to Colon in anticipation of award of air mail contract; request that Department secure permission for flight over certain Central American countries and exemption from clearance formalities, and also that Department instruct consular officers to render all possible assistance.	775
Feb. 25	<i>To the Pan American Airways, Inc.</i> Dispatch of instructions to missions in Central America to obtain permission for flight and exemptions from clearance formalities; instructions to consular officers to render all possible assistance.	776
Mar. 7	<i>To the Pan American Airways, Inc.</i> Reports from missions in Central America that the desired arrangements have been made.	777

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GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA—Continued

Date and number	Subject	Page
1928 Mar. 7	<i>To the American Diplomatic Representatives in Costa Rica, Guatemala, Panama, and Salvador (cir. tel.)</i> Postponement of Pan American Airways flight for approximately 30 days.	778
Mar. 16 (21)	<i>To the Minister in Guatemala (tel.)</i> Information that Mr. John D. MacGregor, vice president of Pan American Airways, will arrive on March 20 for purpose of obtaining a transport concession; instructions to render all possible and proper assistance.	778
Mar. 17 (331)	<i>To the Minister in Nicaragua</i> Plan of Mr. MacGregor to visit country to which Minister is accredited, for the purpose of obtaining airplane transport concessions. Authorization to extend all possible and proper assistance. (Sent also to the Ministers in Costa Rica, Honduras, and Salvador.)	778
Mar. 26 (1861)	<i>From the Minister in Guatemala</i> Report that Mr. MacGregor was received by President Chacón, that their preliminary discussion of project was pleasant, and that matter of details will be discussed with Minister of Interior.	778
Apr. 18 (36)	<i>To the Minister in Guatemala (tel.)</i> Understanding that Mr. MacGregor is having difficulties in his negotiations; instructions to report present situation and to render all possible assistance.	779
Apr. 24 (49)	<i>From the Minister in Guatemala (tel.)</i> Report that delay is due to consideration of matter by Council, that the Minister requested the President to receive Mr. MacGregor again, and that the latter has been assured that the President and Minister of Interior will sign contract when returned by the Council.	779
May 2 (59)	<i>From the Minister in Guatemala (tel.)</i> Departure of Mr. MacGregor for Honduras to open negotiations; disinclination of Guatemalan Government to take action on company's application while Cabinet resignations are pending. (Repeated to Honduras and Salvador.)	780
May 5 (1118)	<i>From the Minister in Salvador</i> Report that Mr. MacGregor advised that he did not then desire to take up negotiations with Salvadoran Government, that because of failure of Guatemalan Government to take any action, he had been instructed to endeavor to interest the Honduran Government, and that plans had been radically changed so that route would not pass through either Guatemala or Salvador.	780
May 11 (125)	<i>To the Ambassador in Mexico (tel.)</i> Instructions to request permission of Mexican Government for Pan American Airways planes to fly over Yucatan and Quintana Roo on their regular trips and to land at Merida when necessary.	781

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GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA—Continued

Date and number	Subject	Page
1928 June 23 (166)	<i>From the Chargé in Mexico (tel.)</i> Receipt of note dated June 21 from the Acting Foreign Minister stating that permission of a provisional character has been granted, with the reservation that definite permission may be given after ratification of the Pan American commercial aviation convention.	781
June 23 (712)	<i>From the Minister in Nicaragua</i> Signature of contract by Nicaraguan Government and Mr. MacGregor on June 18; information that the contract as signed contains article previously not brought to Legation's attention which so completely protects company from interference that it might be impossible for a rival company to engage in commercial aviation in Nicaragua (excerpt printed).	782
June 26 (161)	<i>To the Chargé in Great Britain (tel.)</i> Information that the British Honduran Government will grant permission for landings and take-offs and airport facilities, but that Colonial Office has withheld its approval because of absence of a general U. S.-British aviation agreement; instructions to take up matter with appropriate authorities and endeavor to bring about favorable decision.	784
June 28 (12)	<i>To the Minister in the Dominican Republic (tel.)</i> Desire of Pan American Airways to inaugurate passenger service between San Antonio, Cuba, and San Juan, Porto Rico, via Port au Prince and Santo Domingo; instructions to request permission for initial flight and to inquire whether Government would be disposed to give permission for the establishment of regular service. (Sent also, <i>mutatis mutandis</i> , on the same date to the Chargé in Haiti.)	784
June 29 (39)	<i>From the Minister in the Dominican Republic (tel.)</i> Dominican permission for initial flight; favorable attitude toward establishment of regular service.	785
June 29 (69)	<i>From the Chargé in Haiti (tel.)</i> Haitian permission for initial flight; consideration of permission for regular service.	785
June 29 (99)	<i>From the Ambassador in Cuba (tel.)</i> For White: Request that Postmaster General be advised, in connection with Pan American Airways' bid for air mail contract, that Cuban aviation commission has acted favorably on company's request for permission to pass through Cuba and to use landing fields, and that necessary decree will be signed by Cuban President.	785
July 5 (56)	<i>To the Minister in Honduras (tel.)</i> Instructions, in view of newspaper opposition to granting of Pan American Airways contract, to make known the company's assurance that it has no connection whatsoever with United Fruit Co.	786
July 11 (60)	<i>To the Minister in Honduras (tel.)</i> Desire of Pan American Airways that Minister discuss contract with President in its behalf; instructions to do so as soon as possible.	786

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GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA—Continued

Date and number	Subject	Page
1928 July 11 (23)	<i>To the Chargé in Venezuela (tel.)</i> Instructions to render all possible assistance to Pan American Airways representative who will arrive in Caracas soon in connection with bid for air mail service between Key West and Porto Rico.	787
July 12	<i>To the Counselor of Embassy in Cuba</i> Instructions to advise Secretary of Communications that Pan American Airways is anxious to obtain concession to carry Cuban domestic mails and hopes that Cuban Government will not give German interests the contract until Pan American has had a chance to make a proposition. Information that Department is anxious to further American aviation in the Caribbean.	787
July 12	<i>To the Minister in Guatemala</i> Suggestion that Guatemalan Government may now wish to be included in the air mail service; instructions to advise what the situation is and whether this is now a favorable moment for Pan American Airways to take up the matter again.	788
Undated [Rec'd July 26]	<i>From the Pan American Airways, Inc.</i> Proposed survey flight from Habana through Central America to Canal Zone about August 18; desire that Department instruct U. S. Ministers to secure permission to land, refuel, and make incidental survey flights in Honduras, Salvador, Costa Rica, and Panama.	789
Aug. 14	<i>To the Pan American Airways, Inc.</i> Information that desired instructions were sent promptly.	789
Sept. 10 (24)	<i>To the Chargé in the Dominican Republic (tel.)</i> Instructions to accord assistance to Mr. P. E. D. Nagle, Pan American Airways representative, in connection with the taking over of the West Indies Aerial Express for establishment of commercial air service between Miami, Florida, and San Juan, Porto Rico. (Sent also, <i>mutatis mutandis</i> , on the same date to the Chargé in Haiti.)	790
Sept. 14 (285)	<i>To the Minister in Honduras</i> Understanding that Mr. MacGregor has encountered difficulties; information that satisfactory contract with Honduran Government is necessary for fulfillment of Pan American contract for air mail service to Panama.	790
Sept. 26	<i>To the Chargé in France</i> Instructions to render assistance to Pan American Airways president in connection with any negotiations with Latécoère Co.	791
Oct. 1	<i>To the Vice Consul at Nassau (tel.)</i> Instructions to render all proper assistance to vice president of Pan American Airways in negotiations for proposed air mail service between Miami and Nassau.	792

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GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA—Continued

Date and number	Subject	Page
1928 Oct. 15 (1058)	<i>From the Minister in the Dominican Republic</i> Readiness of Dominican Government to accord every possible facility to Pan American Airways representatives in connection with establishment of Miami-San Juan air service; understanding that formal agreement will be discussed in near future; report that Legation accorded every possible and proper assistance.	792
Nov. 26 (1324)	<i>From the High Commissioner in Haiti</i> Report of negotiations between Haitian Government and Pan American Airways over proposed contract, as well as opposition of Financial Adviser-General Receiver to certain preferential provisions thereof; request for Department's views; draft articles of the contract (texts printed).	793
Nov. 28 (1327)	<i>From the High Commissioner in Haiti</i> Opinion that benefits accruing to Haiti from the contemplated services of Pan American Airways are such as to permit of most liberal action on part of Haitian Government; recommendation that Department, while not approving of certain monopolistic provisions, not object to their being incorporated if the Haitian Government so desires.	795
Dec. 1 (267)	<i>From the Ambassador in Great Britain (tel.)</i> Foreign Office note (excerpt printed), advising that necessary arrangements have been made; understanding that the position is now for direct negotiation between the British Honduran Government and the company.	796
Dec. 4 (91)	<i>From the Minister in Costa Rica (tel.)</i> Belief that temporary suspension of railway service between San José and Limon due to floods, offers the opportunity for Pan American Airways to establish itself by arranging for service by amphibian plane; recommendation for immediate action in order to forestall activities by non-American aviation interests.	796
Dec. 6 (94)	<i>From the Minister in Costa Rica (tel.)</i> Indications that non-American interests are active; recommendation that Pan American Airways act immediately if it desires to take advantage of the opportunity.	797
Dec. 8 (30)	<i>To the Minister in Ecuador (tel.)</i> Information from Pan American Airways that W. R. Grace & Co. is applying for operating concession in Ecuador similar to concession recently granted to German air interests; instructions to render all possible and proper assistance.	797
Dec. 8 (48)	<i>To the Minister in Costa Rica (tel.)</i> Immediate shipment by Pan American Airways of plane to Canal Zone for assembly, which should reach Costa Rica by December 25; permission to use this information to further company's interests.	798
Dec. 11 (89)	<i>To the Ambassador in Chile (tel.)</i> Understanding that Pan American Airways and W. R. Grace & Co. are negotiating with Chilean Government for air mail concession from Arica south.	798

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GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA—Continued

Date and number	Subject	Page
1928 Dec. 12 (50)	<i>To the Minister in Costa Rica (tel.)</i> Advice that Lieut. Donald Duke has been granted leave in order to fly a plane from Colon to Port Limon for delivery to Pan American Airways; instructions to request permission for flight and landing facilities.	798
Dec. 12 (51)	<i>To the Minister in Costa Rica (tel.)</i> Instructions to render all proper assistance to Mr. Frank Whiting of Pan American Airways in negotiations for establishment of San José-Limon air mail service.	798
Dec. 14 (757)	<i>From the Chargé in Honduras</i> Information that Mr. MacGregor has resumed negotiations with Honduran Government and that prospects are favorable for the conclusion of an agreement.	799
Dec. 16 (99)	<i>From the Minister in Costa Rica (tel.)</i> Receipt of permission requested in telegram No. 50 of December 12.	799
Dec. 17 (88)	<i>To the High Commissioner in Haiti (tel.)</i> Approval of suggestion in despatch No. 1327 of November 28.	799
Dec. 24 (147)	<i>From the Chargé in Honduras (tel.)</i> Signature of contract between Pan American Airways and Honduran Government.	800

HUFF-DALAND DUSTERS AND KEYSTONE AIRPLANE CORPORATION

1928 Jan. 19 (4)	<i>To the Ambassador in Peru (tel.)</i> Information that American interests are planning, with the encouragement and approval of the U. S. Government, to establish air service along western coast of South America, and that it is important that the Peruvian Government grant no exclusive or other concessions to foreign interests which might prevent activities of American interests; instructions to discuss matter confidentially with Peruvian President, intimating that the U. S. Government would appreciate it if field were kept open pending maturing and presentation of American propositions. (Sent also, <i>mutatis mutandis</i> , on the same date to the Minister in Ecuador.)	800
Jan. 21 (4)	<i>From the Ambassador in Peru (tel.)</i> Report that several days previously the Ambassador presented to President Leguia, Mr. Woolman, representative of Huff-Daland Dusters and Keystone Aircraft Corporation, American companies, and that the Peruvian Government is entertaining proposal to award contract for Lima-Panama service to Woolman's principals; inquiry whether cable No. 4 of January 19 is intended to oppose Woolman proposition.	801
Jan. 25 (6)	<i>To the Ambassador in Peru (tel.)</i> Information that the American interests referred to in Department's telegram No. 4 of January 21 are Keystone, Huff-Daland Dusters, Pan American Airways, and possibly eventually others; instructions to give all possible and proper support to Mr. Woolman.	801

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GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA—Continued

Date and number	Subject	Page
1928 Feb. 8 (1042)	<i>From the Minister in Ecuador</i> Assurance by Ecuadoran President of fullest cooperation with plans for American participation; his agreement to the request that any applications for concessions be discussed with U. S. Minister prior to taking any action.	802
Apr. 16 (932)	<i>From the Chargé in Peru</i> Report that Mr. Woolman has for some months been attempting to secure an air service concession; that efforts of German air interests have been receiving support of German military mission, but that American proposition appears to be receiving favorable consideration.	802
Apr. 19 (29)	<i>From the Chargé in Peru (tel.)</i> Assurance by President Leguia that reports of signature of contract with German air interests are incorrect; his advice that the present intention is to enter into contracts with both American and German interests and let them compete.	805
PROPOSED AIR MAIL SERVICE BETWEEN THE UNITED STATES AND CHILE		
1928 Apr. 13 (27)	<i>To the Ambassador in Chile (tel.)</i> Understanding that Compagnie Latécoère has applied for concession of monopoly for air service from east to west between Chile and Brazil. Information that plans of the U. S. Government to launch project for air mail service between United States and Chile would be seriously interfered with if Chile were to grant any exclusive concession. Instructions to discuss matter confidentially with President Ibanez, expressing hope that the field will be kept open pending maturing and presentation of project.	805
Apr. 19 (54)	<i>From the Ambassador in Chile (tel.)</i> Assurance by President Ibanez that no more exclusive concessions will be granted; his opinion that existing Latécoère contract is not exclusive. Ambassador's opinion that Chile probably would not favor proposed American service unless Chilean pilots were to be used within Chilean territory.	806
June 7 (1410)	<i>From the Ambassador in Chile</i> Belief of Director General of Posts that principle of coast-wise trade should be extended to air ships. Information that Ambassador offered arguments against these views in conversations with him and with Foreign Minister.	807
Oct. 8 (112)	<i>From the Ambassador in Chile (tel.)</i> Desire for any pertinent information regarding Chilean section of proposed air mail service which would facilitate securing more precise indication as to extent of Chilean Government's cooperation and facilities.	808
Oct. 13	<i>To the Pan American Airways</i> Inquiry for information requested by the Ambassador in Chile.	808

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GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA—Continued

Date and number	Subject	Page
1928 Oct. 16	<i>From the Pan American Airways, Inc.</i> Reply that it will be several months before negotiations can be undertaken with the Chilean Government, unless the State Department feels it of vital importance to begin the negotiations sooner.	809
Oct. 19	<i>To the Pan American Airways, Inc.</i> Warning that delay may seriously jeopardize possibility of reaching a satisfactory agreement; opinion that it is of great importance to undertake negotiations at an early date.	809
Oct. 24	<i>From the Pan American Airways, Inc.</i> Information that company is considering plans to undertake negotiations with Chilean Government within the reasonably near future; observation that extension of operations is dependent upon a satisfactory arrangement with Chilean Government and an advantageous contract for the transport of U. S. mail.	810
Oct. 27 (72)	<i>To the Ambassador in Chile (tel.)</i> Information that the Department will advise immediately company's definite plans when available.	810

DEPARTMENT OF COMMERCE FLIGHT—DEMONSTRATIONS BY CURTISS COMPANY AND
CONSOLIDATED AIRCRAFT CORPORATION

1928 Jan. 7 (1)	<i>To the Ambassador in Argentina (tel.)</i> Advice from Department of Commerce that arrangements have been made to send two Curtiss planes to South America on an experimental and pathfinding flight. Instructions to request permission for flight. (Sent also, <i>mutatis mutandis</i> , on the same date to missions in Bolivia, Chile, and Uruguay.)	811
Jan. 7 (2)	<i>To the Chargé in Brazil (tel.)</i> Advice similar to that sent in telegram No. 1 to Argentina. Instructions to request free entry for equipment; information that name of steamer and date of arrival will be cabled later. (Sent also, <i>mutatis mutandis</i> , on the same date to the Ambassador in Peru.)	811
Jan. 17 (1)	<i>From the Ambassador in Peru (tel.)</i> Peruvian permission for flight and authorization for free entry of planes, equipment, and supplies.	812
Jan. 18 (3)	<i>To the Ambassador in Peru (tel.)</i> Information that expedition will sail January 19 on the <i>Santa Luisa</i> .	812
Jan. 20 (2)	<i>To the Minister in Bolivia (tel.)</i> Desire of Department of Commerce that Legation and Consulate cooperate with local Curtiss representative in promoting interest in American aircraft products and aeronautics; instructions to comply and inform Consulate.	812
Jan. 25 (7)	<i>From the Ambassador in Argentina (tel.)</i> Argentine permission for flight.	812

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GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA—Continued

Date and number	Subject	Page
1928 Feb. 2 (7)	<i>From the Minister in Uruguay (tel.)</i> Uruguayan permission for flight.	813
Feb. 8 (28)	<i>From the Ambassador in Chile (tel.)</i> Chilean permission for flight.	813
Apr. 11 (50)	<i>From the Ambassador in Chile (tel.)</i> Opinion of representatives of Curtiss Company, Consolidated Aircraft Corporation, and other American aircraft and arms manufacturing companies that their difficulties in obtaining orders are due to belief of Chilean Government that if Chile becomes involved in war the U. S. Government will prevent subsequent deliveries or will rule that airplanes are in same category as armed ships and may not be outfitted in territory of neutrals; inquiry whether Department has any suggestions to meet the situation. (Footnote: Information that in February and March 1928 the missions in Chile, Argentina, Uruguay, and Brazil were instructed to accord assistance and to request free entry and clearance for the Consolidated airplane for demonstration purposes; also that on February 29, the mission in Peru was instructed to secure refund of customs charges paid when the airplane entered Peru.)	813
Apr. 16 (28)	<i>To the Ambassador in Chile (tel.)</i> Instructions to avoid discussion of the subject, but to render appropriate assistance to obtain for companies fair consideration of their propositions.	814
May 1 (1367)	<i>From the Ambassador in Chile</i> Information that the Ambassador has made most vigorous efforts with Chilean officials to influence them to give American firms a part of the airplane contracts about to be awarded.	814
June 8 (642)	<i>From the Chargé in Uruguay</i> Information that demonstrations of Curtiss and Consolidated planes by Lieutenants Doolittle and Wade, respectively, were highly successful.	815
June 26 (325)	<i>From the Ambassador in Cuba</i> Telegram of June 25 from the U. S. Ambassador in Argentina (text printed), conveying request by Lieutenant Doolittle that permission be secured for him to refuel at Cienfuegos en route from Buenos Aires to New York and to be granted customs courtesies; request for instructions.	816
July 12 (191)	<i>To the Chargé in Cuba</i> Authorization to request permission for Lieutenant Doolittle's flight and free entry for equipment.	817
July 17 (3037)	<i>From the Ambassador in Brazil</i> Information concerning Embassy's assistance to Lieutenant Doolittle and his demonstrations in Rio de Janeiro.	817

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GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA—Continued

BOEING AIRPLANE COMPANY AND PRATT AND WHITNEY MOTOR CORPORATION

Date and number	Subject	Page
1928 Feb. 4	<i>From the Assistant Secretary of Commerce</i> Information that Ralph A. O'Neill, representing Boeing Airplane Company and Pratt and Whitney Motor Corporation, is leaving on February 11 to demonstrate Boeing planes to army and navy air services of the South American countries. Request that necessary permission be secured for flight and for free entry of equipment.	818
Feb. 6 (3)	<i>To the Ambassador in Brazil (tel.)</i> Instructions to request free entry for equipment and permission for flight of Captain O'Neill. (Sent also, <i>mutatis mutandis</i> , on the same date to the missions in Argentina, Chile, Peru, and Uruguay.)	820
Feb. 8	<i>To the Secretary of Commerce</i> Issuance of appropriate instructions to missions in South America.	820
Feb. 9 (1036)	<i>To the Minister in Colombia</i> Instructions to request permission for O'Neill's flight and free entry of equipment. (Sent also, <i>mutatis mutandis</i> , on the same date to the missions in Bolivia, Ecuador, and Venezuela.)	821
Feb. 9 (10)	<i>From the Ambassador in Argentina (tel.)</i> Inquiry whether O'Neill intends to demonstrate before Argentine Army and Navy air service; request to be advised as to date of arrival and method of travel.	821
Feb. 10 (8)	<i>To the Ambassador in Argentina (tel.)</i> Information that O'Neill will give demonstration if invited to do so, that date of arrival will be communicated by Embassy at Rio de Janeiro, and that he will fly from Rio to Buenos Aires and thence to Santiago.	821
Mar. 8 (38)	<i>From the Ambassador in Chile (tel.)</i> Report that, although application for free entry was denied, airplane and accessories will be admitted under bond canceled upon leaving Chile.	822
Mar. 12 (907)	<i>From the Ambassador in Peru</i> Foreign Office note of February 23 (text printed) advising that Peruvian Government is glad to receive O'Neill and will grant all necessary facilities and free entry for equipment.	822
Apr. 24 (1076)	<i>From the Minister in Ecuador</i> Receipt from Foreign Ministry of notification that request for flight in Ecuador and extension of facilities has been granted.	823
Apr. 27 (1312)	<i>From the Minister in Colombia</i> Receipt from Foreign Ministry of permission for O'Neill's flight; advice that Minister is again addressing Foreign Office as to free entry for his equipment.	824
May 11 (15)	<i>From the Chargé in Uruguay (tel.)</i> Report that O'Neill and companion were slightly injured in airplane crash.	824

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GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA—Continued

Date and number	Subject	Page
1928 May 11 (16)	<i>From the Chargé in Uruguay (tel.)</i> Information that O'Neill was unaccompanied on flight, and is expected to leave the hospital the next day.	824

TRI-MOTORS AIRWAYS CONCESSION IN ARGENTINA

1928 Sept. 26 (38)	<i>To the Ambassador in Argentina (tel.)</i> Understanding that Capt. Ralph A. O'Neill negotiated a favorable air mail ¹ concession with Argentine postal authorities which the Remington-Rand Corporation has agreed to finance, but that the time limit has practically expired and there may therefore be some difficulty in actually securing the grant; hope of Department of Commerce that Ambassador might be in a position to assist in securing the concession.	825
Sept. 28 (64)	<i>From the Ambassador in Argentina (tel.)</i> Information that O'Neill's representative was advised by Director of Posts and Telegraphs that no contracts could be consummated in short time remaining of present administration.	825
1929 Jan. 8 (7)	<i>To the Ambassador in Argentina (tel.)</i> Advice from O'Neill that the Director of Posts signed contract with Tri-Motors Airways on December 22, subject to approval by other officials. Instructions to report present status and possibilities of final ratification, and to lend all appropriate assistance to O'Neill's representative.	826
Jan. 9 (7)	<i>From the Ambassador in Argentina (tel.)</i> Information that the new negotiations are not yet concluded and have been subject to delay by reason of recent change of administration. (Footnote: Signature of decree February 28, 1929, granting Tri-Motors Airways the right to establish an air service with the United States.)	826

POSSIBLE EXTENSION OF AMERICAN AIR LINES TO VENEZUELA

1928 Feb. 17 (5)	<i>From the Chargé in Venezuela (tel.)</i> Inquiry whether the Department desires the Legation to ascertain discreetly the Venezuelan Government's attitude toward proposed air line mentioned in Department of Commerce communication to commercial attaché in Caracas, January 12.	826
Mar. 3 (5)	<i>To the Chargé in Venezuela (tel.)</i> Opinion that representatives of the U. S. Government should not initiate or conduct private business negotiations on behalf of private American interests with foreign governments; instructions not to approach Venezuelan Government, but to give all proper assistance to responsible American interests engaged in legitimate activities. Advice that Department is informing Department of Commerce.	827

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GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF AMERICAN INTERESTS
DESIRING TO ESTABLISH AIR LINES IN LATIN AMERICA—Continued

Date and number	Subject	Page
1928 Mar. 3	<i>To the Secretary of Commerce</i> Expression of Department's attitude in the matter; information as to Department's instructions to Legation in Venezuela.	827
Mar. 10 (7)	<i>To the Chargé in Venezuela (tel.)</i> Instructions to endeavor to ascertain discreetly Venezuelan attitude toward establishment by American interests of air lines, but to make no statement that could possibly be interpreted as favoring any specific interest or project.	828
Mar. 13 (1502)	<i>From the Chargé in Venezuela</i> Doubt of Minister of Fomento that an application for an air line would receive favorable consideration. Chargé's suggestion that inquiry in question referred to proposed line between Maracaibo and Curaçao and that Department might wish to learn Venezuelan attitude toward commercial aviation in general.	828
May 26 (1248)	<i>To the Chargé in Venezuela</i> Information that American interests are planning, with the encouragement and approval of the U. S. Government, to establish air service in the Caribbean area, and that it is important that the Venezuelan Government grant no exclusive or other concessions to foreign interests which might prevent activities of American interests; instructions to discuss matter confidentially with Venezuelan President, intimating that the U. S. Government would appreciate it if field were kept open pending maturing and presentation of American projects.	829
July 3 (70)	<i>From the Chargé in Venezuela (tel.)</i> Advice that the information has been conveyed to President by the Foreign Minister, that no concessions appear as yet to have been granted to any foreign interests, but that German Colombian Company has been trying to obtain one, and British interests have advanced a vague proposal.	830
July 3 (71)	<i>From the Chargé in Venezuela (tel.)</i> Receipt of intimation that the United States has been slow in entering the field and cannot hope to keep out foreign interests indefinitely.	830

REPRESENTATIONS BY FOREIGN GOVERNMENTS WITH RESPECT TO SENATE BILL
RELATING TO PAYMENT OF ADVANCE WAGES TO SEAMEN ON FOREIGN VESSELS

1928	<i>Senate Bill No. 2945, 70th Congress, First Session</i> Relating to the payment of advance wages and allotments in respect of seamen on foreign vessels, and making further provision for carrying out the Seamen's Act of March 4, 1915. Footnote: Introduced in the Senate by Mr. La Follette, January 27 (calendar day, January 31); read twice and referred to the Committee on Commerce.	830
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REPRESENTATIONS BY FOREIGN GOVERNMENTS WITH RESPECT TO SENATE BILL
RELATING TO PAYMENT OF ADVANCE WAGES TO SEAMEN ON FOREIGN VESSELS—
Continued

Date and number	Subject	Page
1928 Feb. 25	<p><i>Memorandum by Mr. C. B. Hosmer, Division of Foreign Service Administration</i></p> <p>Conversation with Mr. J. Balfour, First Secretary of the British Embassy, in which there was clear inference that Mr. Balfour felt that Senate Bill 2945 would constitute a very radical departure from long-established practices among nations. Doubt whether Congress will request the Department for a report unless it is called to the attention of the appropriate committees that this class of legislation might involve the United States in perplexing questions with other nations.</p>	831
Apr. 26	<p><i>From the British Embassy</i></p> <p>Observation that the effect of the Senate bill appears to be contrary to generally accepted principles of international law; desire to draw attention to difficulties which may attend the bill's enactment into law.</p>	832
Apr. 28	<p><i>To the Honorable Wallace H. White, Jr.</i></p> <p>Transmittal of British memorandum of April 26; belief that the Senate bill contravenes accepted principles of law that contracts of all kinds are to be governed as to their nature, validity, and interpretation by the law of place where they were made; information that Italian Embassy has made reservations; opinion that proposed bill will give rise to numerous conflicts of laws and may render American merchant marine subject to retaliatory measures by foreign governments.</p> <p>(Footnote: Mr. White was Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives.)</p>	833
Apr. 30	<p><i>From the Italian Embassy</i></p> <p>Observation that, while Senate bill provides that U. S. courts shall be open to seamen for claims concerning wages earned upon American or foreign vessels, article 11 of the consular convention between Italy and United States reserves such questions to Italian consular officials.</p>	834
Apr. 30	<p><i>From the Swedish Legation</i></p> <p>Representations against the Senate bill as being contrary to the fundamental principles of international law.</p> <p>(Footnote: Copy transmitted to Mr. White on May 4, 1928.)</p>	834
May 3 (1413)	<p><i>From the Netherlands Legation</i></p> <p>Opinion that proposed bill is contrary to international law.</p> <p>(Footnote: Copy transmitted to Mr. White on May 10, 1928.)</p>	835
June 12 (82)	<p><i>From the Danish Minister</i></p> <p>Opinion that extension of jurisdiction contemplated in the proposed bill would conflict not only with Danish law but also with generally accepted principles of international law; desire that this view be presented to the proper Committees, in anticipation that bill will come up at December session of Congress.</p>	836
June 29	<p><i>To the Italian Embassy</i></p> <p>Observation that article 11 of the consular convention cited is no longer in force.</p>	836

GENERAL

REPRESENTATIONS BY FOREIGN GOVERNMENTS WITH RESPECT TO SENATE BILL
RELATING TO PAYMENT OF ADVANCE WAGES TO SEAMEN ON FOREIGN
VESSELS—Continued

Date and number	Subject	Page
1928 Dec. 8	<i>To the Honorable Wallace H. White, Jr.</i> Transmittal of Danish note of June 12; observation that article 11 of the consular convention with Italy is no longer in force; opinion that the passage of the proposed bill would be undesirable.	837

REPRESENTATIONS BY FOREIGN GOVERNMENTS REGARDING SENATE BILLS
FOR THE DEPORTATION OF CERTAIN ALIEN SEAMEN

1927 Feb. 4 (74)	<i>From the British Ambassador</i> Opinion that Senate bill 3574, providing for the deportation of certain alien seamen and other purposes will meet with strenuous opposition of British shipping interests; request for authoritative interpretation of the meaning of certain sections. (Footnote: Information that an official of the Department of State advised the British Embassy regarding status of the bill, stating that it was unlikely that any House committee action would be taken without the Department having an opportunity to be heard. Information that the British and other representations were brought to the attention of the Senate Committee on Immigration.)	838
Feb. 5	<i>From the German Ambassador</i> Observation that proposed bill would prove an extraordinary burden to German shipping interests.	839
Feb. 7	<i>From the French Chargé</i> Opinion that proposed bill would prove cumbersome to the French colonial merchant marine; request for official interpretation of certain sections. (Footnote: Information that in a note of February 17, 1927, the Department stated that if it were decided to consider the bill further, hearings would be held which would undoubtedly bring out more clearly the purposes of the proposed measure.)	830
1928 Jan. 4	<i>From the British Embassy</i> Representations against Senate bill 717, which is almost identical with Senate bill 3574 which was killed in the House of Representatives the preceding year. (Footnote: Receipt from British Embassy of a memorandum dated May 3, 1929, with reference to Senate bill 202 introduced April 18, 1929, identical with Senate bill 717.)	840
Jan. 13	<i>From the Swedish Legation</i> Representations against Senate bill 717.	842
Jan. 17 (170)	<i>From the Netherlands Legation</i> Representations against Senate bill 717.	842
Undated [Rec'd Jan. 21]	<i>From the German Embassy</i> Objections to Senate bill 717.	843
Jan. 28	<i>From the Norwegian Legation</i> Representations against Senate bill 717.	844

ALBANIA

RECOGNITION OF ZOG I, KING OF THE ALBANIANS

Date and number	Subject	Page
1928 Aug. 4 (48)	<i>From the Minister in Albania (tel.)</i> Decision of Ahmet Zogu, President of Albania, to proclaim himself King within 30 days.	845
Aug. 28 (28)	<i>To the Minister in Albania (tel.)</i> Instructions to keep Department advised concerning the proposed change of regime and the action colleagues will take concerning recognition and attendance at coronation.	845
Aug. 30 (510)	<i>From the Minister in Albania</i> Apparent finality of decision to proclaim Ahmet Zogu the King on September 1.	845
Sept. 1 (56)	<i>From the Minister in Albania (tel.)</i> Proclamation of Ahmet Zogu as "Zog I, King of the Albanians;" probability that there will be no coronation or ceremonies; information that colleagues are proceeding cautiously with regard to question of recognition; opinion that change of government has been brought about in a regular manner and will be accepted by Albania.	846
Sept. 5 (30)	<i>To the Minister in Albania (tel.)</i> Note from Albanian Minister, dated September 3 (text printed), announcing that on September 1 the Constitutional Convention unanimously voted the restoration of the monarchy and elected President Zogu as King of the Albanians. Instructions to cable information as to action taken or contemplated by colleagues concerning recognition.	847
Sept. 6 (58)	<i>From the Minister in Albania (tel.)</i> Note from Foreign Minister (excerpt printed) requesting recognition and stating intention to observe treaties signed by the Republic and to promote peace in the Balkans. Information that because change of regime is by statute, no question of treaty observance is involved, and that recognition has been granted by Italy, Greece, and Hungary.	847
Sept. 12 (35)	<i>To the Minister in Albania (tel.)</i> Note for Foreign Minister extending U. S. recognition and telegram of felicitation from President Coolidge to King Zog (texts printed).	848
Sept. 14	<i>From King Zog to President Coolidge (tel.)</i> Appreciation for telegram of felicitation.	848
Sept. 20 (493)	<i>From the Minister in the Kingdom of the Serbs, Croats and Slovenes</i> Opinion of Albanian Chargé that U. S. recognition has gone far to establish King Zog's government in the eyes of the world and has no doubt stimulated recognition by Yugoslavia.	849
Sept. 27 (525)	<i>From the Minister in Albania</i> Information concerning the intense gratification with which U. S. recognition was received in Albania. Foreign Minister's note (text printed) in reply to U. S. Minister's note extending recognition.	850

ALBANIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND ALBANIA, SIGNED OCTOBER 22, 1928

Date and number	Subject	Page
1928 Apr. 24 (10)	<i>To the Minister in Albania (tel.)</i> Delivery to Albanian Minister of draft treaties of arbitration and conciliation.	852
Oct. 9	<i>From the Albanian Minister</i> Receipt of instructions to sign the treaties of arbitration and conciliation, and also the treaty for the renunciation of war.	853
Oct. 22	<i>Treaty Between the United States of America and Albania</i> Of arbitration.	853
Oct. 22	<i>Treaty Between the United States of America and Albania</i> Of conciliation.	855

AUSTRIA

NEGOTIATIONS RESPECTING SUBORDINATION OF THE AUSTRIAN RELIEF LOAN TO A PROPOSED NEW AUSTRIAN LOAN; AUTHORIZATION OF A DEBT AGREEMENT

1927 Dec. 29	<i>Memorandum by the Economic Adviser</i> Summary of present status of negotiations concerning proposed new Austrian internal reconstruction loan.	858
1928 Jan. 14 (13)	<i>From the Chargé in France (tel.)</i> Decision by Reparation Commission to give favorable consideration to Austrian application for deferment of the lien on Austrian assets and revenues under Treaty of St. Germain, in order to insure service of the proposed new Austrian loan.	859
Jan. 16 (7)	<i>From the Austrian Minister</i> Deferment by Reparation Commission and all other creditor nations, except the United States, of their liens for a period of 30 years beginning from the issue of the proposed new Austrian loan; request that recommendation be made to Congress for a bill authorizing 30-year deferment of U. S. lien, in order that the loan negotiations may proceed without further obstruction; desire for separate treatment of deferment of lien and debt questions.	860
Jan. 19 (4)	<i>From the Minister in Austria (tel.)</i> Chancellor's hope that U. S. Government is convinced of Austria's earnest attempt to effect relief debt settlement and will therefore be satisfied with expediting action without awaiting a final settlement by agreement.	861
Jan. 21 (5)	<i>To the Minister in Austria (tel.)</i> Observation that the Executive cannot decide on Austrian request to approach Congress with a recommendation for deferment of lien without first making an independent investigation of the proposed loan's bearing upon Austria's economic and financial status; information that Austrian Minister has been thus informed and advised that additional data will be welcomed.	862

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NEGOTIATIONS RESPECTING SUBORDINATION OF THE AUSTRIAN RELIEF LOAN
TO A PROPOSED NEW AUSTRIAN LOAN—Continued

Date and number	Subject	Page
1928 Jan. 23 (1692)	<p><i>From the Minister in Austria</i></p> <p>Information that Chancellor will furnish Minister duplicates of material Austrian Government is supplying to J. P. Morgan & Co. representative now making a thorough investigation of Austria's financial status; also that Morgan representative will furnish substance of the data he collects.</p>	862
Jan. 28 (11/R)	<p><i>From the Austrian Minister</i></p> <p>Correspondence between Austrian Government and the International Relief Bonds Committee in London, comprising original Austrian proposal for settlement of relief debt, counterproposal by Committee, and Austrian reply of January 14, 1928 (texts printed); Austrian proposal for funding of relief debt to the United States (text printed).</p>	864
Feb. 2	<p><i>To the Austrian Legation</i></p> <p>Principal aspects of the proposed loan on which the Department lacks adequate data.</p>	869
Feb. 3 (1704)	<p><i>From the Minister in Austria</i></p> <p>Transmittal of documents furnished by Finance Ministry to the Morgan representative; latter's opinion that general situation in Austria has substantially improved since two or three years previously.</p>	870
Feb. 4 (15)	<p><i>To the Minister in Switzerland (tel.)</i></p> <p>Instructions to ascertain whether League Financial Committee has studied proposed Austrian loan or whether it has any reason for not interesting itself in this loan as it did in the 1923 loan.</p> <p>(Instructions to repeat to the Legation at Vienna, together with reply when ready, and to mail texts to the Embassies at London and Paris.)</p>	872
Feb. 7 (18/R)	<p><i>From the Austrian Minister</i></p> <p>Arguments in favor of the proposed loan; plea, however, that legislation for deferment of lien be recommended to Congress and that judgment as to merits of Austrian loan be postponed to a time when question of American participation comes up for decision.</p>	873
Feb. 9 (10)	<p><i>From the Minister in Switzerland (tel.)</i></p> <p>Information that League Financial Committee is not interesting itself in the present loan because it was not requested by Austria to set up the machinery for a loan nor is Austria taking any action that might jeopardize seriously the country's entire financial structure.</p> <p>(Repeated to the Legation in Austria.)</p>	876
Feb. 15 (9)	<p><i>From the Minister in Austria (tel.)</i></p> <p>Austrian statement (text printed) setting forth improvements in railways and posts which are contemplated under the proposed loan.</p> <p>(Request that copy be given to Austrian Minister.)</p>	877

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NEGOTIATIONS RESPECTING SUBORDINATION OF THE AUSTRIAN RELIEF LOAN
TO A PROPOSED NEW AUSTRIAN LOAN—Continued

Date and number	Subject	Page
1928 Feb. 16 (10)	<i>From the Minister in Austria (tel.)</i> Information that the Government is beginning to be sharply criticized by the opposition press, that it is known that the United States is the sole remaining obstruction to the negotiations and flotation of loan, and that the Chancellor hopes that early congressional action will be deemed justified by the information now furnished. (Copies of this telegram and No. 9 of February 15 to missions at London, Paris, and Berne.)	879
Feb. 17 (12)	<i>To the Minister in Austria (tel.)</i> Instructions to clarify certain points in telegram No. 9 of February 15; information that the Department is giving immediate consideration to the matter.	879
Feb. 18 (11)	<i>From the Minister in Austria (tel.)</i> Information as requested in Department's telegram No. 12 of February 17.	880
Feb. 21 (15)	<i>To the Minister in Austria (tel.)</i> Issuance by Secretary of the Treasury of press statement summarizing Austrian loan situation and announcing that recommendation will be made to Congress for legislation to permit subordination of the American lien; instructions to so advise appropriate officials informally. (Instructions to repeat to London, Paris, and Berne.)	881
Mar. 5	<i>Memorandum by the Economic Adviser</i> Disinclination of Morgan & Co. to go ahead with the proposed loan unless suitable arrangements are made regarding European relief creditors' stipulation that their agreement to subordinate lien is dependent upon Austria's agreement to a definite settlement of the relief credits and unless reparation debt is postponed as well as subordinated.	881
Mar. 5 (16)	<i>To the Minister in Austria (tel.)</i> Instructions to ascertain correctness of report regarding conditional agreement of European relief creditors to subordination of their lien; to inquire status of relief debt negotiations; and to state that U. S. Government expects treatment on an equal footing with the other governments involved.	882
Mar. 5 (56)	<i>To the Ambassador in Great Britain (tel.)</i> Desire for information concerning report that European relief creditors are making subordination of lien conditional upon Austrian agreement to settle relief credits. (Instructions to repeat reply to Legation in Austria.)	882
Mar. 7 (46/R)	<i>From the Austrian Minister</i> Proposal for funding of relief debt to all creditor nations, including the United States.	883
Mar. 7	<i>From the Austrian Minister</i> Memorandum stating that the Austrian Government does not know of any change in status of case whereby European creditor nations make their agreement to subordination of lien dependent on funding of relief credits and advising that there must be some misapprehension (text printed).	884

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NEGOTIATIONS RESPECTING SUBORDINATION OF THE AUSTRIAN RELIEF LOAN
TO A PROPOSED NEW AUSTRIAN LOAN—Continued

Date and number	Subject	Page
1928 Mar. 7 (12)	<i>From the Minister in Austria (tel.)</i> Understanding in Vienna that subordination of relief bonds lien becomes automatic assuming U. S. Government acts; Foreign Office assurance that the French, Italian, Swiss, and Netherlands Governments have indicated willingness to accept Austrian proposal for settlement of relief debt provided British Government will do the same. Inquiry whether situation might not be fully met by passage of a joint resolution similar to that of April 6, 1922, so that Secretary of Treasury could exercise his discretion in light of action of other interested powers.	885
Mar. 7	<i>From the Minister in Austria</i> Concurrence in Austrian contention that the other relief credit states cannot now in good faith make a prior relief credit settlement a condition precedent to lien subordination; reiteration of suggestion as to joint resolution.	886
Mar. 9 (46)	<i>From the Ambassador in Great Britain (tel.)</i> Information that report in Department's telegram No. 56 of March 5 appears to be correct; understanding that representatives of the interested governments will meet soon. (Repeated to Vienna.)	887
Mar. 9 (66)	<i>To the Ambassador in France (tel.)</i> Inquiry whether there have been any recent developments as to fixing Austrian reparations and liability for army costs. (Instructions to forward telegram and reply to missions at Vienna and London.)	887
Mar. 10 (17)	<i>To the Minister in Austria (tel.)</i> Instructions to mention informally to appropriate official the general nature of the report contained in London Embassy's telegram No. 46 of March 9 and to telegraph further comment.	888
Mar. 10 (58)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to have frank talk with Foreign Office regarding meeting of the Control Committee to be held March 15, inquiring whether definite action in authorizing proposed loan is to be conditioned on settlement of relief indebtedness, or whether both propositions may be settled simultaneously. (Instructions to repeat to missions at Paris and Vienna. Information that missions at London, Paris, and Vienna should keep each other mutually informed.)	889
Mar. 12 (13)	<i>From the Minister in Austria (tel.)</i> Information that the Control Committee advanced their meeting at Geneva to March 8 and approved investment plan set forth in telegram No. 9 of February 15. Plan of Relief Bonds Committee to meet at London on March 30; understanding that governments have given assurances that there is no disposition to force settlement of loan authorization and relief indebtedness simultaneously.	890
Mar. 13 (48)	<i>From the Ambassador in Great Britain (tel.)</i> Understanding that Relief Bonds Committee will meet on March 30 in effort to reach terms for settlement of European relief debts, the settlement to provide that priority of relief debts over reparations is maintained; observation that approval of Reparation Commission will be required.	890

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NEGOTIATIONS RESPECTING SUBORDINATION OF THE AUSTRIAN RELIEF LOAN
TO A PROPOSED NEW AUSTRIAN LOAN—Continued

Date and number	Subject	Page
1928 Mar. 13 (49)	<i>From the Ambassador in Great Britain (tel.)</i> Report of expectation that meeting of March 30 will accept general terms of last Austrian offer for settlement of European relief debts.	891
Mar. 13 (64)	<i>From the Ambassador in France (tel.)</i> Absence of further developments in the fixing of Austrian reparation liabilities; status of the several claims for army costs; impression that European creditors are not likely to stultify their efforts toward rehabilitation of Austria by unduly burdensome reparation or other treaty payments.]	891
Mar. 14 (65)	<i>From the Ambassador in France (tel.)</i> Possibility that if Austria should begin payment on relief bonds account in 1929 in accordance with funding proposal, Italy and perhaps France might raise question of obtaining some payment for army costs in view of priority of army costs over the relief bonds.	893
Mar. 14 (18)	<i>To the Minister in Austria (tel.)</i> Information that the situation is sufficiently clarified to warrant forwarding to President Coolidge recommendation that he ask Congress to grant to Secretary of the Treasury authority to subordinate lien; authorization to inform Chancellor.	894
Mar. 15 (19)	<i>To the Minister in Austria (tel.)</i> Instructions to cable the dollar equivalent of the total amount of relief indebtedness of Austria to the creditor governments, including the United States.	894
Mar. 16 (52)	<i>From the Ambassador in Great Britain (tel.)</i> Report that the Control Committee met March 8 and raised no objection to proposed Austrian expenditure.	895
Mar. 16 (14)	<i>From the Minister in Austria (tel.)</i> Information that total principal amount of Austrian relief indebtedness is equivalent of \$119,846,673.80.	895
Mar. 19	<i>Memorandum by the Economic Adviser</i> Approval by the Secretaries of State and the Treasury of procedure for the drafting of a bill to authorize subordination of the lien and to authorize the latter to conclude a debt-funding agreement with Austria.	896
Mar. 19 (59/R)	<i>From the Austrian Minister</i> Assurance that the Austrian Government intends to make an early settlement of the relief debt and will make a settlement with the United States on a basis no less favorable than that made with any of the other relief creditor governments.	896
Mar. 20	<i>President Coolidge to the Congress of the United States</i> Recommendation that Congress enact the legislation proposed in enclosed report of the Secretary of the Treasury, dated March 19 (text printed).	897
Mar. 20 (21)	<i>To the Minister in Austria (tel.)</i> Instructions to inform the Chancellor of President Coolidge's recommendation to Congress.	901

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NEGOTIATIONS RESPECTING SUBORDINATION OF THE AUSTRIAN RELIEF LOAN
TO A PROPOSED NEW AUSTRIAN LOAN—Continued

Date and number	Subject	Page
1928 Mar. 22 (63/R)	<i>From the Austrian Minister</i> Appreciation for the President's action.	901
Mar. 23	<i>To the Minister in Austria</i> Observation that it is too early to predict the reaction in Congress, but that the State and Treasury Departments will do what is possible in helping the legislation through.	902
Apr. 3	<i>Memorandum by the Economic Adviser</i> Information from the Austrian Minister that at the meeting of relief creditors, all governments except Italy agreed to accept the Austrian proposal for settlement of relief debts; his observation that as long as the United States has not yet adopted the pending legislation, Italy could defer action and not be isolated.	902
Apr. 7	<i>To the Austrian Minister</i> Assurance that the Department of State will continue its collaboration with the Treasury Department in connection with consideration of the proposed legislation.	903
Apr. 11	<i>To the Honorable Willis C. Hawley</i> Importance, from the standpoint of international relations, of early and favorable action on the proposed legislation.	904
Apr. 18	<i>Memorandum by the Economic Adviser</i> Telephonic advice to the Austrian Minister that if the proposed legislation were adopted, the Secretary of the Treasury would not have authority to settle with Austria on the basis now under consideration unless Italy should accept similar terms.	905
May 21 (128)	<i>From the Ambassador in France (tel.)</i> Opinion that draft decision of Reparation Commission concerning Austrian application for exception of certain revenues from first charge under Treaty of St. Germain is satisfactory; inquiry, however, whether reference should be made in preamble to the legislation pending in Congress of the United States. Request for instructions.	906
May 22 (143)	<i>To the Ambassador in France (tel.)</i> Opinion that there would be no advantage in mentioning the United States in preamble or decision.	907
May 28 [27?] (137)	<i>From the Ambassador in France (tel.)</i> Information that the Italian delegation on the Reparation Commission blocked any action on Austrian application, and that further consideration of question has been postponed to next meeting to be held June 23; opinion that the Italian reasons given are only a pretext and that there are other reasons back of their attitude.	907
May 29 (139)	<i>From the Ambassador in France (tel.)</i> Understanding that the Italian representative on Relief Bonds Committee now opposes Austrian loan on much the same grounds as those advanced in Reparation Commission meeting.	909
May 29 (27)	<i>To the Minister in Austria (tel.)</i> Adjournment of Congress without action on proposed legislation.	909

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NEGOTIATIONS RESPECTING SUBORDINATION OF THE AUSTRIAN RELIEF LOAN
TO A PROPOSED NEW AUSTRIAN LOAN—Continued

Date and number	Subject	Page
1928 May 31 (24)	<i>From the Minister in Austria (tel.)</i> Report of keen disappointment and some despondency in official quarters.	909
June 1 (28)	<i>To the Minister in Austria (tel.)</i> Authorization to point out that proposed legislation did not get as far as floor of either House owing to the pressure of pending legislation toward close of the session, but that it will be taken up at December session.	909
June 2	<i>Memorandum by the Assistant Secretary of State</i> Information that the Italian Ambassador called on June 1 to say officially that Italy feels the arrangement to make a further loan to Austria is not satisfactory.	910
June 4 (25)	<i>From the Minister in Austria (tel.)</i> Parliamentary declaration by the Chancellor with regard to status of the proposed loan, in which he attributed Italy's attitude in Reparation Commission to the strained relations still existing between the two countries.	910
June 14	<i>Memorandum by the Economic Adviser</i> Conversation in which the Austrian Minister advised that he now felt that it would probably be best to conclude a definite debt settlement with the United States, and was told that the matter would be reviewed. (Footnote: Similar expression by the Austrian Minister to the Assistant Secretary of State on June 21.)	911
June 21 (691)	<i>To the Minister in Austria</i> Desire of U. S. Government to avoid, if possible, sharing with Italy the responsibility for blocking proposed loan; instructions to continue to report any developments of interest which may have a bearing on U. S. course of action. (Similar instructions to missions at Rome, Paris, and London.)	911
July 27 (1798)	<i>From the Ambassador in Italy</i> Information that there has been no change in Italian Government's attitude.	912
Aug. 16	<i>Memorandum by the Economic Adviser</i> Conversation in which the Austrian Minister stated expectation of an early adjustment of the difficulties with Italy which led to blocking of the loan proposal and inquired whether it would not be better to drop the bill introduced at last session of Congress and submit the definitive terms of a debt settlement; Economic Adviser's reply that Austrian Government should submit full data in support of any proposal it might make.	912
Aug. 28	<i>Memorandum by the Assistant Secretary of State</i> Information from the Austrian Minister, in conversation on August 27, that Vienna has word that the Italians will not make any trouble, but that he feels that Congress will not pass on the legislation unless a debt-funding agreement has been made; his inquiry whether Austria should send a debt funding commission.	913

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NEGOTIATIONS RESPECTING SUBORDINATION OF THE AUSTRIAN RELIEF LOAN
TO A PROPOSED NEW AUSTRIAN LOAN—Continued

Date and number	Subject	Page
1928 Sept. 28	<p><i>Memorandum by the Economic Adviser</i></p> <p>Conversation with the Austrian Minister who stated that he would soon submit an exhaustive economic and financial study in support of the proposed debt settlement and was advised that the Department did not believe that his previous suggestion for an Austrian debt funding commission was desirable; the Austrian Minister's further statement that he had already recommended that Dr. Schüller be sent and that it would be difficult now to recommend against his trip.</p> <p>(Footnote: The American Minister to Austria and Mr. Livesey of the Office of the Economic Adviser were also present.)</p>	914
Oct. 22 (1992)	<p><i>From the Minister in Austria</i></p> <p>Reasons why the Austrian Government desires that Dr. Schüller go to Washington.</p>	915
Nov. 14 (158/R)	<p><i>From the Austrian Minister</i></p> <p>Formal proposal for the final settlement of Austrian relief bond indebtedness to the United States.</p>	917
Nov. 20	<p><i>Memorandum by the Economic Adviser</i></p> <p>Report of the interview at which Austrian Minister presented Dr. Schüller to the Secretary of State.</p>	921
Nov. 20	<p><i>Memorandum by the Economic Adviser</i></p> <p>Conversation with the Austrian Minister and Dr. Schüller in which the latter conveyed the information that Austria considers the relief debt agreement negotiated June 15 with Denmark, France, Great Britain, the Netherlands, Norway, Sweden, and Switzerland, to be now in force, and that it will begin payments on January 1, 1929, at the same time making corresponding payments to the United States and to Italy.</p>	921
Dec. 7 (40)	<p><i>To the Minister in Austria (tel.)</i></p> <p>Submission of the proposed debt agreement to the House Ways and Means Committee; Committee's consideration of amended joint resolution authorizing subordination of the lien in favor of the proposed loan and the conclusion of a debt agreement set forth in general terms in the resolution.</p>	923
Dec. 12 (42)	<p><i>To the Minister in Austria (tel.)</i></p> <p>Adoption by the House, December 11, of the amended resolution.</p> <p>(Footnote: Excerpt from telegram No. 79 of June 15, 1929, to the Embassy in France, stating that the joint resolution passed Congress and was approved by the President on February 4, 1929, that Austria made the payment due January 1, 1929, and that the agreement will not be signed until Reparation Commission has taken action indicated in paragraph 6 of the agreement and the Secretary of the Treasury is satisfied that such action is adequate to guarantee security and priority over the costs of reparation.)</p>	923

AUSTRIA

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND AUSTRIA, SIGNED JUNE 19, 1928

Date and number	Subject	Page
1926 May 12 (459)	<i>To the Minister in Austria</i> Instructions to renew negotiations with regard to the proposed treaty of friendship, commerce and consular rights; U. S. views on changes to be made in draft and on Austrian counter proposals concerning articles 1 to 6.	924
July 20 (1106)	<i>From the Minister in Austria</i> Information that understanding has been reached with Dr. Schüller of the Foreign Office concerning practically all matters in controversy in the first six articles.	932
Dec. 1 (527)	<i>To the Minister in Austria</i> Instructions with regard to articles 7 to 14.	937
1927 Feb. 11 (552)	<i>To the Minister in Austria</i> Continuation of instructions; consideration of articles 15 to 25.	943
Feb. 24 (556)	<i>To the Minister in Austria</i> Comments on results of negotiations regarding the first six articles.	956
Apr. 2 (566)	<i>To the Minister in Austria</i> Supplementary instructions concerning articles 7 and 25.	960
Apr. 30 (1372)	<i>From the Minister in Austria</i> Acknowledgment of receipt of full powers to sign treaty as finally approved by Department; report of progress of negotiations.	965
June 23 (602)	<i>To the Minister in Austria</i> Supplementary instructions; hope that steady progress will be made so that treaty may be signed in time for submission to the Senate at the December session.	969
June 30 (605)	<i>To the Minister in Austria</i> Additional instructions regarding articles 11 and 12.	972
July 11 (1468)	<i>From the Minister in Austria</i> Report that negotiations are practically concluded; review of the chief articles which have been the subject of the most controversy; hope that Department can meet Austrian views on articles 7, 11, and 12.	974
Sept. 10 (53)	<i>From the Minister in Austria (tel.)</i> Desire for telegraphic instructions regarding articles 7, 11, and 12, which alone remain open for discussion.	984
Sept. 13 (15)	<i>To the Minister in Austria (tel.)</i> Approval of text as it now stands, with exception of articles 7, 11, and 12, on which instructions will be sent as soon as possible.	984
Sept. 23 (17)	<i>To the Minister in Austria (tel.)</i> Instructions with regard to article 7, relating to most-favored-nation treatment of commerce.	985

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TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND AUSTRIA, SIGNED JUNE 19, 1928—Continued

Date and number	Subject	Page
1927 Sept. 26 (56)	<i>From the Minister in Austria (tel.)</i> Comments on discussions with Dr. Schüller regarding article 7.	986
Oct. 4 (1554)	<i>From the Minister in Austria</i> Foreign Office suggestion with regard to certificates of identity for commercial travelers provided under article 11; report that another conference has been held with Austrian officials regarding article 7; desire that Department review suggestions contained in telegram No. 56 of September 26 to see whether they do not to all intents and purposes secure what the United States desires.	987
1928 Mar. 17 (20)	<i>To the Minister in Austria (tel.)</i> Instructions for certain revisions of article 7.	990
Apr. 12 (24)	<i>To the Minister in Austria (tel.)</i> Views on article 11, and suggested provision to meet Austrian views; understanding that no questions are now before the Department in respect of which instructions have been requested.	991
Apr. 20 (18)	<i>From the Minister in Austria (tel.)</i> Information that revised draft of article 7 as authorized by the Department has finally been accepted; desire for early instructions on minor points regarding identification certificates for commercial travelers and duration and termination of the treaty, so that negotiations can be completed and the treaty signed in May.	991
Apr. 24 (20)	<i>From the Minister in Austria (tel.)</i> Austrian preference for new phraseology in article 11; their willingness to accept term of 7 years for duration of treaty.	992
Apr. 27 (25)	<i>To the Minister in Austria (tel.)</i> Gratification at Austrian acceptance of article 7; information that Department's suggestions as to identification certificates are regarded as essential; authorization to substitute term of 7 years for 8 or 6 if Austrian negotiator prefers.	993
May 9 (23)	<i>From the Minister in Austria (tel.)</i> Revision of article 11 pursuant to Department's telegram No. 24 of April 12; assent to Austrian preference for 6-year term. Information that Cabinet Council is taking the necessary formalities and that treaty will probably be signed in the current month.	993
June 5 (29)	<i>To the Minister in Austria (tel.)</i> Instructions, if treaty is not yet signed and if agreeable to Austria, to revise portion of article 25 relating to termination of sixth paragraph of article 7; information that Department has altered policy toward Senate reservation to article 7 in treaty with Germany, and wishes to include provision for national treatment of shipping, obligatory for full term of treaty.	994
June 16 (28)	<i>From the Minister in Austria (tel.)</i> Information that the changes indicated in Department's telegram No. 29 of June 5 have been made and that the treaty will be signed June 18. (Footnote: Telegraphic advice from the Minister that the treaty was signed on June 19.)	994

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TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND AUSTRIA, SIGNED JUNE 19, 1928—Continued

Date and number	Subject	Page
1928 June 19	<i>Treaty Between the United States of America and Austria</i> Of friendship, commerce and consular rights. (Bracketed note: Information that a Senate reservation on February 11, 1929, was accepted by both Governments in an exchange of notes dated January 20, 1931.)	995
1931 Jan. 20	<i>From the American Minister in Austria to the Austrian Vice-Chancellor and Federal Minister for Foreign Affairs</i> Hope that Austrian Government will accept the reservation regarding duration of provision for national shipping contained in article 7 as specified in Senate resolution of February 11, 1929, giving advice and consent to ratification (text printed).	1006
Jan. 20	<i>From the Austrian Vice-Chancellor and Federal Minister for Foreign Affairs to the American Minister in Austria</i> Declaration of agreement with Senate reservation, subject to ratification.	1007
Jan. 20	<i>Supplementary Agreement Between the United States of America and Austria</i> Providing that the treaty may be terminated on February 11, 1935, or any date thereafter, upon one year's notice by either party.	1007

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND AUSTRIA, SIGNED AUGUST 16, 1928

1928 Mar. 23 (23)	<i>To the Minister in Austria</i> Information that drafts of proposed treaties of arbitration and conciliation have been handed to the Austrian Minister.	1008
May 3 (96/R)	<i>From the Austrian Minister</i> Readiness of Austria to conclude the proposed treaties of arbitration and conciliation.	1009
Aug. 16	<i>Treaty Between the United States of America and Austria</i> Of arbitration.	1009
Aug. 16	<i>Treaty Between the United States of America and Austria</i> Of conciliation.	1011

DISINCLINATION OF THE UNITED STATES TO ENTER INTO A TREATY WITH AUSTRIA GRANTING TO IMMIGRANTS EQUAL RIGHTS WITH CITIZENS IN MATTERS OF LEGAL PROTECTION

1927 July 21	<i>From the Austrian Minister</i> Memorandum (text printed) stating desire of the Austrian Government to enter into a convention assuring legal protection in certain cases to the citizens of both countries.	1013
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AUSTRIA

DISINCLINATION OF THE UNITED STATES TO ENTER INTO A TREATY WITH AUSTRIA GRANTING TO IMMIGRANTS EQUAL RIGHTS WITH CITIZENS IN MATTERS OF LEGAL PROTECTION—Continued

Date and number	Subject	Page
1928 Feb. 10	<p data-bbox="186 352 466 379"><i>To the Austrian Minister</i></p> <p data-bbox="186 379 880 564">Memorandum (text printed) stating that the U. S. Government is disinclined to enter into the convention suggested, in view of the fact that even in absence of treaty provisions aliens in the United States are placed upon an equality with American citizens in the matter of legal remedies and also because the questions of procedure in the courts of the different States are matters to be determined in accordance with the laws of the several States.</p>	1014

BOLIVIA

GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF THE STANDARD OIL COMPANY IN ESTABLISHING RADIO STATION AT YACUIBA

1928 June 12 (12)	<p data-bbox="191 732 538 767"><i>To the Minister in Bolivia (tel.)</i></p> <p data-bbox="191 767 890 899">Desire of Standard Oil Co. of New Jersey to establish a radio station at Yacuiba and their request to Bolivian Government for assignment of short wave channels; instructions to advise the Foreign Minister informally that the Department would be glad to see this additional channel of communication established between Bolivia and the United States.</p>	1018
Aug. 24 (38)	<p data-bbox="191 917 569 943"><i>From the Minister in Bolivia (tel.)</i></p> <p data-bbox="191 943 890 987">Signature of Executive decree, August 23, authorizing the Standard Oil Co. to construct a radio station at Yacuiba.</p>	1018

BRAZIL

DISAPPROVAL BY THE DEPARTMENT OF STATE OF PROPOSED REFUNDING IN THE AMERICAN MARKET OF STATE OF SÃO PAULO LOAN OF 1926

1928 Feb. 2	<p data-bbox="191 1155 896 1217"><i>From Mr. Andrew Ten Eyck, for E. H. Rollins & Sons, New York</i></p> <p data-bbox="191 1217 896 1287">Desire for approval of proposed refunding in the American market of the loan of the State of São Paulo which was brought out in London in 1926 through the São Paulo Coffee Institute.</p>	1019
Feb. 16	<p data-bbox="191 1296 896 1323"><i>To Mr. Andrew Ten Eyck, for E. H. Rollins & Sons, New York</i></p> <p data-bbox="191 1323 896 1420">Inability to modify position taken by U. S. Government prior to flotation of the loan of 1926 that the issue in the American market of a loan in connection with coffee valorization would not be viewed with favor.</p>	1020

BRAZIL

REFUSAL OF THE DEPARTMENT OF STATE TO DISAPPROVE LOAN TO STATE OF SÃO PAULO BECAUSE OF CLAIM OF AMERICAN FIRM AGAINST STATE

Date and number	Subject	Page
1928 Mar. 29	<i>To the Consul at São Paulo (tel.)</i> Request by Baker, Kellogg & Co. and Ulen & Co. that the Department use its informal good offices to endeavor to induce State of São Paulo to deliver an issue of vicinal bonds to the Itararé-Fartura Railroad which were assigned by the railroad to the American interests as security for a loan; instructions to discuss matter informally with the appropriate authorities, expressing hope that a mutually satisfactory solution may be reached in the near future.	1020
Apr. 2	<i>From the Consul at São Paulo (tel.)</i> Information from the State Secretary of Fazenda that the bonds have not been issued because the State has been judicially notified by another creditor that bonds should be delivered to him, and that the matter is now being studied by State's legal adviser.	1021
May 3 (15)	<i>To the Ambassador in Brazil (tel.)</i> Intention of the American interests, if State will not agree to make a satisfactory settlement, to bring influence to bear on bankers' associations both in the United States and in Europe to prevent flotation of future loans by the State, on the ground that it does not live up to its financial obligations; instructions to express to Brazilian President the hope that for the best interests of all a satisfactory settlement may be reached, but to be careful not to appear to be making any threats on behalf of the bankers.	1022
June 19	<i>From Speyer & Co.</i> Hope that the Department will have no objection to a proposed flotation in the United States of an international loan to the State of São Paulo.	1022
June 21	<i>To Speyer & Co.</i> Nonobjection to proposed loan.	1023
June 23 (26)	<i>From the Ambassador in Brazil (tel.)</i> Difficulty of securing information for American interests in regard to the Itararé-Fartura Railway matter because of the antagonism which their peremptory methods have developed among members of the São Paulo Government; information that illness of the President has prevented conferences with him.	1024
June 29 (23)	<i>To the Ambassador in Brazil (tel.)</i> Belief that as soon as the President's health permits the Ambassador should take action suggested in Department's telegram No. 15 of May 3.	1025
July 10	<i>From Speyer & Co.</i> Information that American portion of the loan has been reduced from \$25,000,000 to \$15,000,000.	1025
July 17	<i>From Field, Gore & Co., International Acceptance Bank, Baker, Kellogg & Co., and Ulen & Company</i> Inquiry whether the Department would give its approval to the reported new loan to State of São Paulo when the borrower is known to be in default.	1025

BRAZIL

REFUSAL OF THE DEPARTMENT OF STATE TO DISAPPROVE LOAN TO STATE OF SÃO PAULO BECAUSE OF CLAIM OF AMERICAN FIRM AGAINST STATE—Continued

Date and number	Subject	Page
1928 July 20 (3039)	<i>From the Ambassador in Brazil</i> Willingness of Brazilian President to endeavor to interest President of São Paulo in affording some assistance to the American groups concerned with the Itararé-Fartura Railway; Ambassador's inability to prophesy how successful the representations may be, in view of the threat contained in bankers' telegram of March 1 (excerpt printed).	1026
July 28	<i>To Field, Gore & Co., International Acceptance Bank, Baker, Kellogg & Co., and Ulen & Company</i> Inability to establish any connection between bankers' grievance against the State of São Paulo and the flotation of a loan of that State.	1027

ASSISTANCE OF THE DEPARTMENT OF STATE IN PROTECTING PATENT RIGHTS OF THE SYMINGTON COMPANY IN BRAZIL FROM INFRINGEMENT BY BELGIAN FIRM

1928 Feb. 29 (92)	<i>From the Chargé in Belgium</i> Information that the Symington Co. alleges that the Société Anonyme des Ateliers de Construction de Familleureux is infringing their patents on railway equipment in connection with order for Brazilian railroads. Opinion that the action of the Belgian firm contravenes the convention for the protection of industrial property of June 2, 1911, to which the United States and Belgium are parties. Instructions to inquire of Foreign Office whether it will not be possible for Belgian authorities to take action with a view to preventing violation of treaty rights of U. S. citizens.	1028
Mar. 9 (1342)	<i>To the Ambassador in Brazil</i> Information similar to that telegraphed on February 29 to the Chargé in Belgium. Instructions to bring the matter urgently to the attention of the Foreign Office, with the request that the shipment in question be prevented from entering Brazil until the Symington rights under the laws of Brazil and the patent convention of 1910 have been recognized and due compensation paid them by the infringers of the patents.	1029
Mar. 22	<i>From the General Counsel of The Symington Company</i> Advice that the Belgian company has recognized the validity of the Brazilian patents owned by the Symington Company and has agreed to pay royalties; expression of appreciation for the Department's assistance.	1031
Mar. 24 (2978)	<i>From the Ambassador in Brazil</i> Satisfactory settlement of the Symington difficulties; expression of appreciation by the company's representatives in Rio de Janeiro for the assistance rendered by the commercial attaché.	1031
Apr. 5 (1355)	<i>To the Ambassador in Brazil</i> Receipt of letter from the General Counsel of the Symington Company dated March 22, stating that matter has been satisfactorily settled. Instructions to take no further action in the matter. (Sent also, <i>mutatis mutandis</i> , on the same date to the Ambassador in Belgium.)	1032

BRAZIL

ASSISTANCE OF THE DEPARTMENT OF STATE IN PROTECTING PATENT RIGHTS OF
THE SYMINGTON COMPANY IN BRAZIL FROM INFRINGEMENT BY BELGIAN FIRM—
Continued

Date and number	Subject	Page
1928 Apr. 23 (234)	<p data-bbox="140 372 505 398"><i>From the Ambassador in Belgium</i></p> <p data-bbox="140 398 831 552">Foreign Office note of April 20 (text printed) replying to Embassy's note sent in accordance with instruction No. 92 of February 29, in which Belgian Government advises that the matter is one of private law rather than violation of the international convention, and states that it could only interpose its good offices in order to obtain eventually a friendly settlement.</p>	1032

BULGARIA

DISINCLINATION OF THE UNITED STATES TO PARTICIPATE IN AGREEMENT REGARDING
APPORTIONMENT OF BULGARIAN REPARATION PAYMENTS

1928 May 21 (841)	<p data-bbox="140 733 408 760"><i>From the Greek Minister</i></p> <p data-bbox="140 760 831 869">Request that the powers signatory to the agreement of January 14, 1925, regarding distribution of the Dawes annuities, take steps to effect a new apportionment of Bulgarian payments; reservation of right to request that the Greek share be increased.</p>	1035
June 12	<p data-bbox="140 887 379 913"><i>To the Greek Minister</i></p> <p data-bbox="140 913 831 957">Information that the formal relationship of the U. S. Government to the proposed action is receiving consideration.</p>	1036
June 28	<p data-bbox="140 975 490 1001"><i>From the Ambassador in France</i></p> <p data-bbox="140 1001 831 1090">Concurrence in Department's opinion that U. S. Government would not wish to sign any new distribution agreement because the United States does not participate in Bulgarian payments.</p>	1036
July 11 (187)	<p data-bbox="140 1107 544 1134"><i>From the Ambassador in France (tel.)</i></p> <p data-bbox="140 1134 831 1266">Information that protocol has been prepared by British, French, and Italian representatives granting to Greece a special advance from the Bulgarian blocked payments; request for authorization to advise General Secretary that the United States does not feel called upon to sign a protocol drawn up following the proposed discussions.</p>	1038
July 12 (211)	<p data-bbox="140 1284 515 1310"><i>To the Ambassador in France (tel.)</i></p> <p data-bbox="140 1310 831 1328">Authorization as requested in telegram No. 187 of July 11.</p>	1038

GENERAL

TREATY FOR THE RENUNCIATION OF WAR AS AN INSTRUMENT OF NATIONAL POLICY, SIGNED AT PARIS, AUGUST 27, 1928¹

Negotiation of the Treaty

711.5112 France/109

The French Ambassador (Claudel) to the Secretary of State

[Translation]

WASHINGTON, January 6, 1928.

MR. SECRETARY OF STATE: In reply to the letter which Your Excellency kindly addressed to me on the 28th of December last,² I have the honor to inform you that M. Briand, Minister of Foreign Affairs of the Republic, has authorized me to transmit to you the attached letter.

Please accept [etc.]

CLAUDEL

[Enclosure—Translation]

The French Ambassador (Claudel) to the Secretary of State

WASHINGTON, January 5, 1928.

MR. SECRETARY OF STATE: By a letter of December 28th last your Excellency was kind enough to make known the sentiments of the Government of the United States concerning the suggestion of a treaty proposed by the Government of the Republic in the month of June 1927,³ with a view to the condemnation of war and the renunciation thereof as an instrument of national policy between France and the United States.

According to your Excellency, the two governments, instead of limiting themselves to a bilateral treaty, would contribute more fully to the peace of the world by uniting their efforts to obtain the

¹ For previous correspondence, see *Foreign Relations*, 1927, vol. II, pp. 611 ff. See also Department of State Publication No. 463, *Treaty for the Renunciation of War: Text of the Treaty, Notes Exchanged, Instruments of Ratification and of Adherence, and Other Papers* (Washington, Government Printing Office, 1933).

² *Foreign Relations*, 1927, vol. II, p. 626.

³ See telegram No. 260, June 22, 1927, 11 a. m., from the Chargé in France, *ibid.*, p. 615.

adhesion of all the principal powers of the world to a declaration renouncing war as an instrument of their national policy.

Such a declaration, if it were subscribed to by the principal powers, could not fail to be an impressive example to all the nations of the world and might very well lead them to subscribe in their turn to the same pact, thus bringing into effect as among all the nations of the world an arrangement which at first was only suggested as between France and the United States.

The Government of the United States, therefore, would be disposed to join the Government of the Republic with a view to concluding a treaty between the principal powers of the world which, open to the signature of all nations, would condemn war, would contain a declaration to renounce it as an instrument of national policy and would substitute therefor the pacific settlement of disputes between nations.

Your Excellency added that if the Government of the Republic agrees thus to join the Government of the United States and the other principal powers of the world in an appropriate multilateral treaty, your Excellency would be happy to undertake immediately conversations leading to the elaboration of a draft inspired by the suggestions of M. Briand and destined to be proposed jointly by France and the United States to the other nations of the world.

The Government of the Republic appreciated sincerely the favorable reception given by the Government of the United States to the proposal of M. Briand. It believes that the procedure suggested by your Excellency and carried out in a manner agreeable to public opinion and to the popular sentiment of the different nations would appear to be of such nature as to satisfy the views of the French Government. It would be advantageous immediately to sanction the general character of this procedure by affixing the signatures of France and the United States.

I am authorized to inform you that the Government of the Republic is disposed to join with the Government of the United States in proposing for agreement by all nations a treaty to be signed at the present time by France and the United States and under the terms of which the high contracting parties shall renounce all war of aggression and shall declare that for the settlement of differences of whatever nature which may arise between them they will employ all pacific means. The high contracting parties will engage to bring this treaty to the attention of all States and invite them to adhere.

The Government of the Republic is convinced that the principles thus proclaimed cannot but be received with gratitude by the entire world, and it does not doubt that the efforts of the two governments to insure universal adoption will be crowned with full success.

Accept [etc.]

CLAUDEL

711.5112 France/96 : Circular telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*⁴

WASHINGTON, January 6, 1928—6 p. m.

An English translation of the proposal which Briand submitted to me last June reads as follows:

[Here follows the text of the draft pact of perpetual friendship contained in telegram No. 260, June 22, 1927, from the Chargé in France, printed in *Foreign Relations*, 1927, volume II, page 615.]

Please deliver to the Foreign Office for the consideration of the Government to which you are accredited a memorandum containing the foregoing text and the text of my reply⁵ which was telegraphed to you in the Department's circular, December 28, 8 p. m.

KELLOGG

711.5112 France/103

The Secretary of State to the French Ambassador (Claudel)

WASHINGTON, January 11, 1928.

EXCELLENCY: In the reply which your Government was good enough to make to my note of December 28, 1927, His Excellency the Minister of Foreign Affairs summarized briefly the proposal presented by the Government of the United States, and stated that it appeared to be of such a nature as to satisfy the views of the French Government. In these circumstances he added that the Government of the Republic was disposed to join with the Government of the United States in proposing for acceptance by all nations a treaty to be signed at the present time by France and the United States, under the terms of which the High Contracting Parties should renounce all wars of aggression and should declare that they would employ all peaceful means for the settlement of any differences that might arise between them.

The Government of the United States is deeply gratified that the Government of France has seen its way clear to accept in principle its proposal that, instead of the bilateral pact originally suggested by M. Briand, there be negotiated among the principal powers of the world an equivalent multilateral treaty open to signature by all nations. There can be no doubt that such a multilateral treaty would be a far more effective instrument for the promotion of pacific relations than a mere agreement between France and the United States alone, and if the present efforts of the two Governments achieve ulti-

⁴The same telegram was sent to the Embassies in Germany, Italy, and Japan.

⁵See *Foreign Relations*, 1927, vol. II, p. 626.

mate success, they will have made a memorable contribution to the cause of world peace.

While the Government of France and the Government of the United States are now closely in accord so far as the multilateral feature of the proposed treaty is concerned, the language of M. Briand's note of January 5, 1928, is in two respects open to an interpretation not in harmony with the idea which the Government of the United States had in mind when it submitted to you the proposition outlined in my note of December 28, 1927. In the first place, it appears to be the thought of your Government that the proposed multilateral treaty be signed in the first instance by France and the United States alone and then submitted to the other Powers for their acceptance. In the opinion of the Government of the United States this procedure is open to the objection that a treaty, even though acceptable to France and the United States, might for some reason be unacceptable to one of the other great Powers. In such event the treaty could not come into force and the present efforts of France and the United States would be rendered abortive. This unhappy result would not necessarily follow a disagreement as to terminology arising prior to the definitive approval by any Government of a proposed form of treaty, since it is by no means unreasonable to suppose that the views of the Governments concerned could be accommodated through informal preliminary discussions and a text devised which would be acceptable to them all. Both France and the United States are too deeply interested in the success of their endeavors for the advancement of peace to be willing to jeopardize the ultimate accomplishment of their purpose by incurring unnecessary risk of disagreement with the other Powers concerned, and I have no doubt that your Government will be entirely agreeable to joining with the Government of the United States and the Governments of the other Powers concerned for the purpose of reaching a preliminary agreement as to the language to be used in the proposed treaty, thus obviating all danger of confronting the other Powers with a definitive treaty unacceptable to them. As indicated below, the Government of the United States would be pleased if the Government of France would agree that the draft treaty submitted by M. Briand last June should be made the basis of such preliminary discussions.

In the second place, and this point is closely related to what goes before, M. Briand's reply of January 5, 1928, in expressing the willingness of the Government of France to join with the Government of the United States in proposing a multilateral treaty for the renunciation of war, apparently contemplates that the scope of such

treaty should be limited to wars of aggression. The form of treaty which your Government submitted to me last June which was the subject of my note of December 28, 1927, contained no such qualification or limitation. On the contrary it provided unequivocally for the renunciation by the High Contracting Parties of all war as an instrument of national policy in the following terms:

“ARTICLE 1

The High Contracting Powers solemnly declare, in the name of the French people and the people of the United States of America, that they condemn recourse to war and renounce it respectively as an instrument of their national policy towards each other.

ARTICLE 2

The settlement or the solution of all disputes or conflicts, of whatever nature or of whatever origin they may be, which may arise between France and the United States of America, shall never be sought by either side except by pacific means.”

I am not informed of the reasons which have led your Government to suggest this modification of its original proposal, but I earnestly hope that it is of no particular significance and that it is not to be taken as an indication that the Government of France will find itself unable to join with the Government of the United States in proposing, as suggested above, that the original formula submitted by M. Briand which envisaged the unqualified renunciation of all war as an instrument of national policy be made the subject of preliminary discussions with the other great Powers for the purpose of reaching a tentative agreement as to the language to be used in the proposed treaty.

If your Government is agreeable to the plan outlined above and is willing that further discussions of the terms of the proposed multilateral treaty be based upon the original proposal submitted to me by M. Briand last June, I have the honor to suggest that the Government of France join with the Government of the United States in a communication to the British, German, Italian and Japanese Governments transmitting the text of M. Briand's original proposal and copies of the subsequent correspondence between the Governments of France and the United States for their consideration and comment, it being understood, of course, that these preliminary discussions would in no way commit any of the participating Governments pending the conclusion of a definitive treaty.

Accept [etc.]

FRANK B. KELLOGG

711.5112 France/119

The French Ambassador (Claudé) to the Secretary of State

[Translation]

WASHINGTON, January 21, 1928.

MR. SECRETARY OF STATE: Your Excellency was pleased to inform me in your note of the 11th instant, of the considerations suggested to you by my letter of January 5 in answer to your communication of December 28, 1927. My Government has asked me to express to you its satisfaction at the harmonizing, thanks to your Excellency, of the views of the two Governments concerning the best method of accomplishing a project upon the essential principles of which they apparently are in agreement.

The original French proposal of June, 1927, contemplating an act confined to France and the United States, appeared to the French Government to be both desirable and feasible by reason of the historical relations between the two Republics.

The American Government was only willing, however, to embody the declaration proposed by the French Government in the preamble of the Franco-American Arbitration Convention now in process of renewal,⁶ and considered on the other hand, for reasons of its own which the French Government has not failed to take into account, that it would be opportune to broaden this manifestation against war and to make it the subject of a separate act in which the other Powers would be invited to participate.

The Government of the Republic was not opposed to this expansion of its original plan, but it could not but realize, and it felt bound to point out that the new negotiation as proposed would be more complex and likely to meet with various difficulties.

The question as to whether there would be any advantage in having such an instrument, of a multipartite nature, signed in the first place by France and the United States, or else first elaborated by certain of the principal Powers of the World and then presented to all for their signature, is essentially one of procedure.

The Government of the Republic offered a suggestion upon this point only because of its desire more speedily and more surely to achieve the result which it seeks in common with the United States. This is tantamount to saying that it is ready to concur in any method which may appear to be the most practicable.

There is, however, a situation of fact to which my Government has requested me to draw your particular attention.

The American Government cannot be unaware of the fact that the great majority of the Powers of the world, and among them most

⁶ See vol. II, pp. 810 ff.

of the principal Powers, are making the organization and strengthening of peace the object of common efforts carried on within the framework of the League of Nations. They are already bound to one another by a covenant placing them under reciprocal obligations, as well as by agreements such as those signed at Locarno in October 1925,⁷ or by international conventions relative to guarantees of neutrality, all of which engagements impose upon them duties which they cannot contravene.

In particular, your Excellency knows that all States members of the League of Nations represented at Geneva in the month of September last, adopted, in a joint resolution tending to the condemnation of war,⁸ certain principles based on the respect for the reciprocal rights and duties of each. In that resolution the Powers were led to specify that the action to be condemned as an international crime is aggressive war and that all peaceful means must be employed for the settlement of differences, of any nature whatsoever, which might arise between the several States.

This is a condition of affairs which the United States, while a stranger thereto, cannot decline to take into consideration, just as must any other State called upon to take part in the negotiation.

Furthermore, the United States would not in any way be bound thereby to the provisions of the covenant of the League of Nations. The French proposal of June last looking to the conclusion of a bi-lateral compact, had been drawn up in the light of the century old relations between France and the United States; the French Government still stands ready to negotiate with the American Government on the same conditions and on the same basis. It has never altered its attitude in that respect. But when confronted by the initiative of the United States in proposing a multipartite covenant, it had to take into consideration the relations existing among the various Powers which would be called upon to participate therein. This it has done, with the object of assuring the success of the treaty contemplated by the United States. Its suggestions of January 5 as to the terms of the multipartite treaty are inspired by the formula which has already gained the unanimous adherence of all of the States members of the League of Nations, and which for that very reason might be accepted by them with regard to the United States, just as it has already been accepted among themselves.

This is the explanation of our proposal of January 5.

The Government of the Republic has always, under all circumstances, very clearly and without mental reservation declared its readiness to join in any declaration tending to denounce war as a

⁷ League of Nations Treaty Series, vol. LIV, pp. 289-359.

⁸ League of Nations, *Official Journal*, October 1927, p. 1444.

crime and to set up international sanctions susceptible of preventing or repressing it. There has been no change in its sentiments in that respect: its position remains the same. Your Excellency may therefore be assured of its sincere desire to respond to the idea of the American Government and to second its efforts to the full extent compatible with the situation of fact created by its international obligations. It is this preoccupation which inspired the formula proposed on January 5, a formula which does indeed seem to be the most apt at this time to assure the accomplishment of the American project. The Government of the Republic accordingly cannot but hope that the American Government will share this view. Subject to these observations, the Government of the Republic would, moreover, very gladly welcome any suggestions offered by the American Government which would make it possible to reconcile an absolute condemnation of war with the engagements and obligations assumed by the several nations and the legitimate concern for their respective security.

Pray accept [etc.]

CLAUDEL

711.5112France/169

The Secretary of State to the Ambassador in France (Herrick)

No. 2632

WASHINGTON, February 14, 1928.

SIR: There is transmitted below the substance of a conversation which took place on February 2, 1928, between the Secretary and the French Ambassador with regard to the so-called Briand proposal for the outlawry of war.

The Secretary asked the Ambassador whether M. Briand's reply to his proposition was to be construed as a definite rejection of the latter to which the Ambassador answered emphatically in the negative. Mr. Kellogg had put this question to M. Claudel merely for his own information in replying to M. Briand although, of course, he would not make use of the Ambassador's statement in replying to the French Government. The Ambassador thereupon stated that the answer which he had given came from M. Briand personally; that the Foreign Minister had telegraphed the Ambassador that he did not wish the Secretary to construe his answer as being a definite refusal to make the treaty which Mr. Kellogg proposed but merely as a suggestion that other French obligations be taken into consideration. In thanking the Ambassador for this message the Secretary assured him that he would answer the note as soon as possible.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

711.5112France/179

*The Secretary of State to the French Ambassador (Claudel)**

WASHINGTON, February 27, 1928.

EXCELLENCY: Our recent discussions of the question whether the United States and France could join in suggesting to the other principal Powers of the world the conclusion of a treaty proscribing war as an instrument of national policy in their mutual relations have been brought by your note of January 21, 1928, to a point where it seems necessary, if success is to be achieved, to examine the problem from a practical point of view.

It is evident from our previous correspondence that the Governments of France and the United States are of one mind in their earnest desire to initiate and promote a new international movement for effective world peace, and that they are in agreement as to the essential principles of the procedure to be followed in the accomplishment of their common purpose. As I understand your note of January 21, 1928, the only substantial obstacle in the way of the unqualified acceptance by France of the proposals which I submitted in my notes of December 28, 1927, and January 11, 1928, is your Government's doubt whether as a member of the League of Nations and a party to the treaties of Locarno and other treaties guaranteeing neutrality, France can agree with the United States and the other principal world Powers not to resort to war in their mutual relations, without *ipso facto* violating her present international obligations under those treaties. In Your Excellency's last note this question was suggested for consideration.

Without, of course, undertaking formally to construe the present treaty obligations of France, I desire to point out that if those obligations can be interpreted so as to permit France to conclude a treaty with the United States such as that offered to me last June by M. Briand and offered again in your note of January 21, 1928, it is not unreasonable to suppose that they can be interpreted with equal justice so as to permit France to join with the United States in offering to conclude an equivalent multilateral treaty with the other principal Powers of the world. The difference between the bilateral and multilateral form of treaty having for its object the unqualified renunciation of war as an instrument of national policy, seems to me to be one of degree and not of substance. A Government free to conclude such a bilateral treaty should be no less able to become a party to an identical multilateral treaty since it is hardly to be presumed that members of the League of Nations are in a position to do separately something they cannot do together. I earnestly hope, therefore, that

*The text of this note was also communicated through the respective American Embassies to the French, British, German, Italian, and Japanese Foreign Offices.

your Government, which admittedly perceives no bar to the conclusion of an unqualified anti-war treaty with the United States alone, will be able to satisfy itself that an equivalent treaty among the principal world Powers would be equally consistent with membership in the League of Nations. If, however, members of the League of Nations cannot, without violating the terms of the Covenant of the League, agree among themselves and with the Government of the United States to renounce war as an instrument of their national policy, it seems idle to discuss either bilateral or multilateral treaties unreservedly renouncing war. I am reluctant to believe, however, that the provisions of the Covenant of the League of Nations really stand in the way of the cooperation of the United States and members of the League of Nations in a common effort to abolish the institution of war. Of no little interest in this connection is the recent adoption of a resolution by the Sixth International Conference of American States expressing in the name of the American Republics unqualified condemnation of war as an instrument of national policy in their mutual relations.¹⁰ It is significant to note that of the twenty-one States represented at the Conference, seventeen are members of the League of Nations.

I trust, therefore, that neither France nor any other member of the League of Nations will finally decide that an unequivocal and unqualified renunciation of war as an instrument of national policy either violates the specific obligations imposed by the Covenant or conflicts with the fundamental idea and purpose of the League of Nations. On the contrary, is it not entirely reasonable to conclude that a formal engagement of this character entered into by all of the principal Powers, and ultimately, I trust, by the entire family of Nations, would be a most effective instrument for promoting the great ideal of peace which the League itself has so closely at heart? If, however, such a declaration were accompanied by definitions of the word "aggressor" and by exceptions and qualifications stipulating when nations would be justified in going to war, its effect would be very greatly weakened and its positive value as a guaranty of peace virtually destroyed. The ideal which inspires the effort so sincerely and so hopefully put forward by your Government and mine is arresting and appealing just because of its purity and simplicity; and I cannot avoid the feeling that if Governments should publicly acknowledge that they can only deal with this ideal in a technical spirit and must insist upon the adoption of reservations impairing, if not utterly destroying the true significance of their common endeavors, they would be in effect only recording their impotence, to the keen disappointment of mankind in general.

¹⁰ See circular telegram of Mar. 1, 4 p. m. p. 12.

From the broad standpoint of humanity and civilization, all war is an assault upon the stability of human society, and should be suppressed in the common interest. The Government of the United States desires to see the institution of war abolished, and stands ready to conclude with the French, British, Italian, German and Japanese Governments a single multilateral treaty open to subsequent adherence by any and all other Governments, binding the parties thereto not to resort to war with one another. The precise language to be employed in such a treaty is a matter of indifference to the United States so long as it clearly and unmistakably sets forth the determination of the parties to abolish war among themselves. I therefore renew the suggestion contained in my note of January 11, 1928, that the Government of France join with the Government of the United States in transmitting to the British, Italian, German and Japanese Governments for their consideration and comment the text of M. Briand's original proposal, together with copies of the subsequent correspondence between France and the United States as a basis for preliminary discussions looking to the conclusion of an appropriate multilateral treaty proscribing recourse to war.

Accept [etc.]

FRANK B. KELLOGG

711.5112France/183

Memorandum by Mr. Spencer Phenix, Assistant to the Under Secretary of State, of a Conversation Between the Secretary of State and the French Ambassador (Claudel), February 27, 1928

The Secretary handed to the French Ambassador at 2:30 this afternoon a note replying to the Ambassador's note of January 21, 1928, with further reference to the so-called Briand proposal. The Ambassador read the note and said he wanted to ask one question, namely, whether the Secretary agreed with the view expressed by Senator Borah in a recent newspaper article (the *New York Times* of February 5, 1928) to the effect that the breach by one party of a general multilateral treaty renouncing war would release the other parties from their obligations thereunder. The Ambassador said that if a treaty could be drawn along such lines or be interpreted in the manner indicated by Senator Borah, he thought that an agreement might readily be reached.

After a brief discussion of the Locarno treaties and reference to Senator Borah's article, the Secretary replied that while he had not given particular attention to that point since it seemed to him to be more a question of drafting than anything else, he saw no objection in principle and that he would be glad to consider the question and discuss it with Senator Borah with a view to ascertaining whether

there would be any objection to including such a provision in the treaty if negotiations should progress to a point where the language to be employed needed to be considered. The Secretary pointed out that in his note he stated explicitly that the precise language to be used in the treaty was a matter of indifference to the United States provided the purpose was accomplished.

The Secretary informed the Ambassador that the English text of the note was being telegraphed to the American Embassy at Paris for communication to the Foreign Office for its convenience so that the Ambassador need only telegraph a French translation. The Secretary also informed the Ambassador that the note was being released to the press for publication in Wednesday morning's papers.

Mr. Olds¹¹ and Mr. Phenix were present during the Secretary's interview with the Ambassador.

S[PENCER] P[HENIX]

711.5112France/192 : Circular telegram

*The Secretary of State to the Ambassador in France (Herrick)*¹²

WASHINGTON, March 1, 1928—4 p. m.

Press reports from Paris indicate some confusion as to the resolution of the Havana Conference referred to in my note of February 27, 1928. For your information and such use as may seem to you desirable, there were two anti-war resolutions adopted by the Havana Conference, one dealing only with wars of aggression and the other expressing unqualified condemnation of all war.

The text of the general resolution referred to in my note is as follows:

"The Sixth International Conference of American States resolves:

Whereas: The American Republics desire to express that they condemn war as an instrument of national policy in their mutual relations; and

Whereas: The American Republics have the most fervent desire to contribute in every possible manner to the development of international means for the pacific settlement of conflicts between States:

1. That the American Republics adopt obligatory arbitration as the means which they will employ for the pacific solution of their international differences of a juridical character.

2. That the American Republics will meet in Washington within the period of one year in a conference of conciliation and arbitration to give conventional form to the realization of this principle, with the minimum exceptions which they may consider indispensable to safeguard the independence and sovereignty of the States, as well as matters of

¹¹ Under Secretary of State.

¹² See last paragraph for instructions to repeat to the American Embassies in Germany, Great Britain, and Italy. Also sent to the Embassy in Japan.

a domestic concern, and to the exclusion also of matters involving the interest or referring to the action of a State not a party to the convention.

3. That the Governments of the American Republics will send for this end plenipotentiary juriconsults with instructions regarding the maximum and the minimum which they would accept in the extension of obligatory arbitral jurisdiction.

4. That the convention or conventions of conciliation and arbitration which may be concluded should leave open a protocol for progressive arbitration which would permit the development of this beneficent institution up to its maximum.

5. That the convention or conventions which may be agreed upon, after signature, should be submitted immediately to the respective Governments for their ratification in the shortest possible time."

The text of the resolution against aggression is as follows:

"The Sixth International Conference of American States: Considering:

That the American nations should always be inspired in solid cooperation for justice and the general good:

That nothing is so opposed to this cooperation as the use of violence:

That there is no international controversy, however serious it may be, which cannot be peacefully arranged if the parties desire in reality to arrive at a pacific settlement:

That war of aggression constitutes an international crime against the human species:

It resolves:

1. All aggression is considered illicit and as such is declared prohibited.

2. The American States will employ all pacific means to settle conflicts which may arise between them."

[Paraphrase]

Both of the said resolutions, it appears, were passed at final plenary session Havana Conference. The Conference obviously intended to go on record as opposed to all war; having condemned war as an instrument of national policy, the Conference found no difficulty in condemning aggressive war as well. It is not necessary, perhaps, to point out the difference between resolutions like these adopted at an international conference and formal treaties which are entered into with idea of preventing recourse to war as far as it is possible so to do. The objection we have to concluding a treaty limited by incorporation of an attempted definition of aggression is that, first, it seems to us to be difficult, if not impossible, to obtain working definition of aggressive war; and second, that even if it were theoretically possible to obtain such a definition, the result in practice would be to defeat largely if not entirely the main object that all of us are seeking.

Repeat to Embassies at London, Berlin and Rome.

KELLOGG

711.5112France/193: Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, *March 3, 1928—1 p. m.*

[Received March 3—10:15 a. m.]

42. Department's circular telegram, March 1. In the second resolution quoted, the term "aggression" and not "war of aggression" is used. Does "aggression" as here used mean merely hostile acts preceding or leading up to war? If all war is renounced then certainly all acts of aggression which might result in war must be renounced also. Is this interpretation correct?

HOUGHTON

711.5112France/197: Telegram

The Secretary of State to the Ambassador in Great Britain (Houghton)

[Paraphrase]

WASHINGTON, *March 3, 1928—5 p. m.*

53. Your No. 42, March 3, 1 p. m. As you will notice, the first resolution passed is substantially in language of Briand proposal condemning war as instrument of national policy. This includes, naturally, everything in other resolution which was passed last. As originally framed and presented to plenary session of the Conference by the Mexican delegate, this resolution against aggression contained in article I the word "war" so that the resolution would read: "All war of aggression is considered illicit and as such is declared prohibited." Señor Guerrero¹³ moved that it be amended by striking out "war of", so that as passed the resolution reads: "All aggression is considered illicit and as such is declared prohibited." I understand that Guerrero explained that there were acts of aggression which stopped short of war, and that he wished to declare against those. First resolution passed would not only include war, naturally, but acts of aggression which, as you state in your telegram, might result in war. At all events, the resolution which the committee reported and which was unanimously passed condemned all war as an instrument of national policy, and it is significant fact that of the countries voting for this resolution 17 were also members of the League of Nations.

KELLOGG

¹³ Gustavo Guerrero, chairman of the Salvadoran delegation to the Sixth International Conference of American States at Habana.

711.5112France/211 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, *March 16, 1928—11 a. m.*

[Received March 16—9:30 a. m.]

52. Yesterday evening I talked for an hour with Stresemann.¹⁴ Since his return to Berlin Tuesday he has been much occupied with political and diplomatic matters, especially the difficulty which has arisen over the arrest in Russia of German engineers, on which the German Government is taking a strong stand. . . .

Stresemann said, in reply to an inquiry by me, that your war prevention treaties had been discussed by the big five at Geneva only once, and then informally. Briand had said to his colleagues, in lighter vein, that when he had proposed to America a treaty providing that France and the United States should renounce war as an instrument of their national policy toward each other he had meant it rather as a gesture, but now that the Secretary of State's reply had invested it with importance he might wish in the future to consult them on the subject; that in the meantime he wanted only to ask them one question: Had the American Government communicated with their Governments in regard to it? To this inquiry Chamberlain,¹⁵ Adachi¹⁶ and Stresemann said that it had.

SCHURMAN

711.5112France/229

The French Ambassador (Claudel) to the Secretary of State

[Translation]

WASHINGTON, *March 30, 1928.*

MR. SECRETARY OF STATE: In reply to your note of February 27 last regarding the proposal for a multilateral treaty proscribing war, I have the honor to inform Your Excellency that M. Briand has been pleased to find in the observations which you have submitted for his consideration a new and cordial affirmation of the common inspiration which animates our two Governments equally anxious to cooperate in an international movement toward the effective establishment of peace in the world. Assured of such a solidarity in the pursuit of an identical purpose, M. Briand remains convinced, as does Your Excellency, that a mutually acceptable formula may well result from the

¹⁴ Dr. Gustav Stresemann, German Minister for Foreign Affairs.

¹⁵ Sir Austen Chamberlain, British Secretary of State for Foreign Affairs.

¹⁶ Japanese representative on the Council of the League of Nations.

exchange of views which has taken place up to now between our two Governments, if on both sides there is a disposition to adhere to those essential realities which must be preserved in this discussion, by subordinating thereto those differences of form to which questions of terminology not affecting the substance of the discussion may upon analysis be reduced.

That is to say, that the French Government at this point of the discussion, when all the aspects of the problem have been examined, proposes to adopt as practical a point of view as possible and to facilitate as far as it can the effort of the American Government in the direction of an immediate decision.

The observations which M. Briand has ventured to offer in support of his last suggestion were inspired by a very sincere desire to facilitate in a practical manner the realization of the proposal for the contemplated multilateral treaty by pointing out the conditions best adapted to bring about the consent thereto of all the Governments whose agreement is necessary. The French wording, therefore, tending to limit to war of aggression the proscription proposed in the form of a multilateral rather than a bilateral treaty, was intended to obviate in so far as the American plan was concerned those serious difficulties which would assuredly be encountered in practice. In order to pay due regard to the international obligations of the signatories, it was not possible, as soon as it became a question of a multilateral treaty, to impart thereto the unconditional character desired by Your Excellency without facing the necessity of obtaining the unanimous adherence of all the existing States, or at least of all the interested States, that is to say, those which by reason of their situation are exposed to the possibility of a conflict with any one of the contracting States. In the relations between the States of the American Continent there are similar difficulties which led the American Government at the Pan American Conference at Habana to approve a resolution limited to the very terms "war of aggression" which the French Government felt compelled to use in characterizing the renunciation to which it was requested to bind itself by means of a multilateral treaty. To be sure, the same reservation does not appear in another resolution to which Your Excellency referred in your note of February 27, but it must be observed that this resolution in itself constituted only a kind of preliminary tending toward a treaty of arbitration with regard to which numerous reservations were formulated.

Your Excellency appears to have been surprised that France should not be able to conclude with all the Powers in the form of a multilateral treaty the same treaty which she offered to conclude separately with the United States in the form of a bilateral treaty. My Government believes that it has explained this point with sufficient clearness in

recalling the fact that the project of a treaty of perpetual friendship between France and the United States proposed last June was drafted in such a way as to limit strictly the mutual undertakings which it contained to those relations in law resulting from intercourse between the two signatory States alone. Within such limits an absolutely unconditional agreement might be entered into, since that agreement would not expose the signatories, as would a multilateral treaty, to juridical difficulties resulting from the respective positions of various Powers with regard to one another, and since furthermore, as regards two countries like France and the United States morally united as they are by ties of time-honored friendship, other contractual engagements concluded by one or the other Power could never constitute in fact anything but purely theoretical obstacles.

In order to attain the result which Your Excellency has in view, you have considered it preferable to adhere to the conception of a multilateral treaty, and you have deemed it necessary to insist that even in the multilateral form the proposed treaty should include an unconditional pledge. If Your Excellency really believes that greater chances of success may be found in this formula in spite of the consequences which it involves, especially the necessity of attaining a treaty world-wide in its scope, the French Government would hesitate to discuss longer the question of its adherence to a plan which the American Government originated and for which it is responsible. Without in any way losing sight of its international obligations, both as a member of the League of Nations and as a party to the Treaties of Locarno or treaties guaranteeing neutrality, France, for the purpose of finding a common basis for initial negotiations, is wholly disposed, after a new examination of the proposals formulated by Your Excellency, to suggest immediately to the German, British, Italian and Japanese Governments that they join in seeking, in the spirit and in the letter of the last American note, any adjustments which in the last analysis may be forthcoming with respect to the possibility of reconciling previous obligations with the terms of the contemplated new treaty. The French Government notes at once with satisfaction that while advocating the conclusion among the Governments specifically mentioned of a treaty binding the signatories not to resort to war, the Government of the United States admits the participation in that treaty of all the other Governments of the world. This conception accords with a reservation actually necessary for obtaining a real instrument for the establishment of peace by means of a formal engagement among all Powers among whom political controversies may arise. Such an engagement would in fact involve the risk of exposing the signatories to dangers and misunderstandings unless based upon the complete equality in the application of the treaty among themselves of all the States with respect to other

States and not only upon the equality of certain States among them. The treaty contemplated could not operate in respect of one Power which is a party thereto unless the other States exposed to the possibility of grave controversies with that party were also signatories thereof.

At the same time it is clear that in order not to turn an instrument of progress and peace into a means of oppression, if one of the Signatory States should fail to keep its word, the other Signatories should be released from their engagement with respect to the offending state. On this second point, as on the first, the French Government believes itself fully in accord with the Government of the United States.

My Government likewise gathers from the declarations which Your Excellency was good enough to make to me on the first of last March, the assurance that the renunciation of war, thus proclaimed, would not deprive the Signatories of the right of legitimate defense. Such an interpretation tends to dissipate apprehensions, and the French Government is happy to note it.

If such is the attitude of the American Government on these three fundamental points, and if it is clearly understood in a general way that the obligations of the new pact should not be substituted for, or prejudice in any way, previous obligations contained in international instruments such as the Covenant of the League of Nations, the Locarno Agreements or treaties guaranteeing neutrality whose character and scope can not be modified thereby, then the differences of opinion which have appeared in the course of previous phases of the negotiation have to do more with words than with the reality of the problem facing the two Governments today.

Hence, in accordance with the proposal contained in your note of January 11, which you kindly renewed in your note of the 27th of February, the French Government would be prepared forthwith to join with the Government of the United States in submitting for the consideration of the Governments of Germany, Great Britain, Italy and Japan, the correspondence exchanged between France and the United States since June, 1927, and in proposing at the same time for the assent of the four Governments, a draft agreement essentially corresponding in purpose to the original proposal of M. Briand, in the multipartite form desired by the United States with the changes of wording made necessary by the new concept; the Signatory Powers of such an instrument, while not prejudicing their rights of legitimate defense within the framework of existing treaties, should make a solemn declaration condemning recourse to war as an instrument of national policy, or in other words as a means of carrying out their own spontaneous, independent policy.

They would specifically undertake, among themselves to refrain from any attack or invasion, and never to seek the settlement of any difference or conflict of whatsoever nature or origin which might arise between them save by pacific means. It would, however, be clearly understood that an obligation could only exist for the Signatories in the event that the engagement were contracted by all States, that is to say, that the treaty, open to the accession of all powers, would only come into force after having received universal acceptance, unless the powers having signed this treaty or acceded thereto should agree upon its coming into force, despite certain abstentions. Finally, in case one of the contracting powers should happen to contravene the treaty, the other contracting powers would be automatically relieved, with respect to that power, of the obligations contained in the treaty.

It is in this form, it would seem, that the negotiation of a plan for a multilateral pact such as conceived by the American Government could be pursued with the greatest chances of success. Your Excellency may be assured, in any case, in the conduct of this negotiation of the most sincere and most complete collaboration of my Government which is always ready to associate itself without ambiguity or reservation, with any solemn and formal undertaking tending to ensure, strengthen or extend the effective solidarity of the Nations in the cause of peace.

In responding to these ideas, whose happy inspiration cannot be gainsaid, France would feel confident that she was continuing the work to which she has never ceased to apply herself in her foreign policy, and, faithful to her previous international engagements of that nature, that she was contributing nobly, as Your Excellency has said, in "promoting the great ideal of peace which the League itself has so closely at heart".

Pray accept [etc.]

CLAUDEL

711.5112France/262

The Ambassador in France (Herrick) to the Secretary of State

No. 8494

PARIS, April 3, 1928.

[Received April 13.]

SIR: I have the honor to report that the general reaction here to M. Briand's last peace pact note has been very favorable.

A limited section of public opinion still appears to feel that the proposed pact in its present form is absolutely in contradiction with the League of Nations, and there is a disposition in some quarters to contend that the reservations set forth by M. Briand amount after all to limiting the condemnation of war to wars of aggression—

in other words, if the other signatories are to be released in case the pact is violated, who is to decide upon or define the violator?—but on the whole there is no undue tendency to argue or criticize.

Sentiment is practically unanimous as to M. Briand's reply being effective both tactically and substantially, and as to France having gone as far as she or any other nation could go along the path of conciliation while taking into account her contractual obligations.

Likewise, attention is called with emphasis and approbation to the passage of the note stating that the French Government would not feel justified in discussing longer "its adhesion to a project the responsibility, as well as the conception, of which pertains to the American Government itself." Coupled with this idea of our moral responsibility for the proposal in its present form—which undoubtedly will continue to be popular here for sometime—is, I think, a growing realization of the possibilities with respect to our eventual moral obligation in case of a violation of the pact. As has been reported in previous despatches, the Socialist *Oeuvre* has consistently set forth this view; it would appear to be growing increasingly widespread and bids fair to become the main consideration in the new phase of negotiations which has now been opened.

This is perhaps the most appropriate place to report to the Department that in its comment on M. Briand's note, the *Journal des Débats* revives the confusion concerning the two Havana resolutions attendant upon the publication of our note of February 27. This paper states that the preamble to the resolution of February 18 condemning war as an instrument of national policy was omitted from the Final Act of the Conference as signed, a copy of which, containing the full text of the resolutions adopted, it claimed reached Paris on March 29 and was in its hands. The Department will undoubtedly be interested in reading the whole article which is herewith transmitted.¹⁸ As the Department is aware, this Embassy is not yet in receipt of any such document or final report nor, I find upon inquiry, is the Cuban Legation here. It should, however, be borne in mind that the French journalists attending the Latin Press Conference at Havana have been drifting back into Paris for the last few days.

I should appreciate having the Department's instructions in the premises definitively clearing up this confusion.¹⁹

I have [etc.]

For the Ambassador:

GEORGE A. GORDON

First Secretary of Embassy

¹⁸ Excerpt from *Journal des Débats*, Mar. 31, 1928, not printed.

¹⁹ See the Department's instruction No. 2774, May 25, to the Ambassador in France, p. 71.

711.5112France/243 : Circular telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*²⁰

[Paraphrase]

WASHINGTON, April 5, 1928—1 p. m.

79. I am convinced that it is important that without further delay we submit to the British, German, Italian, and Japanese Governments, for the consideration and comment of those Governments, the correspondence which has been exchanged between this Government and that of France in regard to an anti-war treaty so that preliminary discussions may be undertaken for purpose of reaching a general agreement.

To this end I sent for the French Ambassador today and asked him informally to make inquiry for me from the French Government as follows:²¹

“In view of the exceedingly full and frank statement of the French position contained in your note of March 30, and of the position of the United States as expressed in its notes, and with the definite understanding that neither France nor the United States stands committed to any formula, but that both sincerely desire to cooperate with each other and with other Powers for the purpose of determining the possibility of reaching a general agreement on a form of treaty renouncing war, may I understand that the French Government is now agreeable to the submission of the entire correspondence in the first instance to the four Powers mentioned in my notes of January 11 and February 27 for their consideration and comment?”²²

Above is for your information and discreet use.

KELLOGG

711.5112France/248 : Telegram

*The Secretary of State to the Ambassador in France (Herrick)*²³

WASHINGTON, April 9, 1928—5 p. m.

101. Department's 100, April 9, 4 p. m.²⁴ Following is text of note to British, German, Italian and Japanese Governments and text of draft treaty to be transmitted therewith.²⁵ Please repeat immediately to London, Berlin and Rome. Note begins:

²⁰ The same telegram was sent to the Embassies in France (No. 97), Germany (No. 33), Japan (No. 34), and Italy (No. 35).

²¹ Quoted portion not paraphrased.

²² On April 7 the French Ambassador made an affirmative answer to the Secretary's inquiry.

²³ The same telegram was sent to the Ambassador in Japan as Department's No. 39.

²⁴ Not printed.

²⁵ The note and draft treaty were delivered to the respective Foreign Offices on April 13.

"As Your Excellency is aware, there has recently been exchanged between the Governments of France and the United States a series of notes dealing with the question of a possible international renunciation of war. The views of the two Governments have been clearly set forth in the correspondence between them.

The Government of the United States, as stated in its note of February 27, 1928, desires to see the institution of war abolished and stands ready to conclude with the French, British, German, Italian and Japanese Governments a single multilateral treaty open to subsequent adherence by any and all other Governments binding the parties thereto not to resort to war with one another.

The Government of the French Republic, while no less eager to promote the cause of world peace and to cooperate with other nations in any practical movement towards that end, has pointed out certain considerations which in its opinion must be borne in mind by those Powers which are members of the League of Nations, parties to the Treaties of Locarno, or parties to other treaties guaranteeing neutrality. My Government has not conceded that such considerations necessitate any modification of its proposal for a multilateral treaty, and is of the opinion that every nation in the world can, with a proper regard for its own interests, as well as for the interests of the entire family of nations, join in such a treaty. It believes, moreover, that the execution by France, Great Britain, Germany, Italy, Japan and the United States of a treaty solemnly renouncing war in favor of the pacific settlement of international controversies would have tremendous moral effect and ultimately lead to the adherence of all the other governments of the world.

The discussions which have taken place between France and the United States have thus reached a point where it seems essential, if ultimate success is to be attained, that the British, German, Italian and Japanese Governments should each have an opportunity formally to decide to what extent, if any, its existing commitments constitute a bar to its participation with the United States in an unqualified renunciation of war. In these circumstances the Government of the United States, having reached complete agreement with the Government of the French Republic as to this procedure, has instructed me formally to transmit herewith for the consideration of your Government the text of M. Briand's original proposal of last June, together with copies of the notes subsequently exchanged between France and the United States on the subject of a multilateral treaty for the renunciation of war.

I have also been instructed by my Government to transmit herewith for consideration a preliminary draft of a treaty representing in a general way the form of treaty which the Government of the United States is prepared to sign with the French, British, German, Italian and Japanese Governments and any other Governments similarly disposed. It will be observed that the language of Articles I and II of this draft treaty is practically identical with that of the corresponding articles in the treaty which M. Briand proposed to the United States.

The Government of the United States would be pleased to be informed as promptly as may be convenient whether Your Excellency's Government is in a position to give favorable consideration

to the conclusion of a treaty such as that transmitted herewith, and if not, what specific modifications in the text thereof would make it acceptable." Note ends.

Draft treaty to be transmitted with note begins :

“Draft of Suggested Treaty

The President of the United States of America

The President of the French Republic

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India

The President of the German Empire

His Majesty the King of Italy

His Majesty the Emperor of Japan

Deeply sensible that their high office imposes upon them a solemn duty to promote the welfare of mankind;

Inspired by a common desire not only to perpetuate the peaceful and friendly relations now happily subsisting between their peoples but also to prevent war among any of the nations of the world;

Desirous by formal act to bear unmistakable witness that they condemn war as an instrument of national policy and renounce it in favor of the pacific settlement of international disputes;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavor and by adhering to the present treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilized nations of the world in a common renunciation of war as an instrument of their national policy;

Have decided to conclude a treaty and for that purpose have appointed as their respective Plenipotentiaries

The President of the United States of America

The President of the French Republic

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India,

The President of the German Empire

His Majesty the King of Italy

His Majesty the Emperor of Japan

who, having communicated to one another their full powers found in good and due form have agreed upon the following articles:

ARTICLE I

The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

ARTICLE II

The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

ARTICLE III

The present treaty shall be ratified by the High Contracting Parties named in the Preamble in accordance with their respective constitutional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at

This treaty shall, when it has come into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other Powers of the world. Every instrument evidencing the adherence of a Power shall be deposited at and the treaty shall immediately upon such deposit become effective as between the Power thus adhering and the other Powers parties hereto.

It shall be the duty of the Government of to furnish each Government named in the Preamble and every Government subsequently adhering to this treaty with a certified copy of the treaty and of every instrument of ratification or adherence. It shall also be the duty of the Government of telegraphically to notify such Governments immediately upon the deposit with it of each instrument of ratification or adherence.

In faith whereof the respective Plenipotentiaries have signed this treaty in the French and English languages, both texts having equal force, and hereunto affix their seals.

Done at the day of in the year of our Lord one thousand nine hundred and twenty" Draft treaty ends.

KELLOGG

711.5112France/249 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, April 10, 1928—3 p. m.

102. In response to the inquiry submitted to M. Briand through Claudel and quoted in my 97 April 5, 1 p. m. to you,²⁶ Claudel came in Saturday²⁷ and reported the receipt of a message from M. Briand which he said he construed as a definite acceptance of our proposal as to procedure, namely, the immediate submission of the entire correspondence to the other Powers for their consideration and comment. I thereupon prepared the note of submission which has been telegraphed to you. On Monday, Claudel having in the meantime left Washington for the south, Count de Sartiges delivered a textual copy of M. Briand's message²⁸ of which Claudel had only a rough draft when he called on Saturday. The final and complete text of M. Briand's message as presented by De Sartiges leaves me frankly

²⁶ See footnote 20, p. 21.

²⁷ i. e., April 7.

²⁸ Not printed.

in some doubt as to M. Briand's precise meaning because the message opens with a flat acceptance of the idea of submitting to the other Powers the entire correspondence but in a subsequent paragraph speaks of reservations, referring in that connection again to M. Briand's note of March 30. I fully appreciate that M. Briand feels obliged to proceed in this important matter with quite understandable caution and am assuming that the reiteration of his position in that part of his last message subsequent to the first paragraph was intended only to guard against any possible misunderstanding of his general attitude and not at all as an objection on his part to the submission of the whole matter to the other Powers in the manner which I proposed.

In these circumstances it is my intention, already publicly expressed after the conversation with Claudel on Saturday, and also explained to De Sartiges yesterday, to transmit to the four other Powers for consideration and comment the correspondence, together with the general form of treaty which has been the subject of the correspondence. I consider that such action is taken on the following definite understanding so far as France is concerned:

(a) That the United States is so proceeding upon its own responsibility;

(b) That no commitment on the part of France is in any way involved;

(c) That any further observations that France may deem necessary or appropriate either at this time or later will of course be addressed by France to the other interested Powers as well as to the United States so that the entire situation may be fully explored by us all.

I am most anxious not only to avoid any conceivable appearance of discourtesy but also to leave no room for the slightest misunderstanding between the United States and France, and therefore before giving final instructions for the delivery of my note of submission to the other Powers, I should like to have you at once see M. Briand personally and explain fully my views and intention as set forth in this telegram. It seems to me clearly that the procedure thus outlined absolutely protects M. Briand's position throughout and that there can be no possible objection to it. Please report promptly the result of your conversation.

The text of M. Briand's message referred to above will, of course, be available to him.

I am today conveying orally to De Sartiges the substance of this telegram to you.

KELLOGG

711.5112France/254 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, April 11, 1928—8 p. m.

[Received April 11—6:37 p. m.²⁹]

90. Mr. Gordon, of the Embassy staff, has just seen Corbin³⁰ again who told him that Briand had arrived in Paris this afternoon but was returning immediately to his election district. Corbin stated that he had personally acquainted Briand fully regarding conversation with Gordon this morning on submission to the other four powers of the draft treaty correspondence. Briand requested that he transmit the following reply:

The Minister for Foreign Affairs understands views and intentions set forth in Department's telegram No. 102, April 10, and is in agreement with procedure therein indicated under the heads (a), (b), and (c) thereof. In view of fact that in submitting the correspondence to Germany, Great Britain, Italy, and Japan the Department intends to submit also the draft general form of treaty, Briand reserves right to do likewise; that is to say, he intends to submit to the said four powers a draft form of treaty embodying French point of view as it has been set forth in the correspondence that has been exchanged with the United States.

Corbin gave evidence of no desire that Department delay giving final instructions for delivery of note to the four powers, together with its enclosures, until such time as the French shall have prepared their proposed draft treaty.

HERRICK

711.5112France/255 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, April 12, 1928—11 a. m.

[Received April 12—9:25 a. m.]

91. Message has just been telephoned from French Foreign Office to add following to Briand's message which was transmitted last night:

Briand requests, so that there be no room for any possible misunderstanding on part of the other four powers, that when our note of submission and its enclosures are delivered to said powers the Department will also communicate to them the substance of its No. 102, April 10, 3 p. m., to this Embassy; that is to say, Briand

²⁹ Telegram in three sections.³⁰ Charles Corbin, director of political and commercial affairs in the French Ministry of Foreign Affairs.

wishes us to inform the four other powers of the definite understanding which the Department communicated to him, on basis of which he has agreed to procedure contemplated by Department.

Briand also requests that Department inform him of date when it proposes to make the aforesaid communication to the other four powers.

HERRICK

711.5112France/257 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, April 12, 1928—10 a. m.

105. Your 90, April 11, 8 p. m. I have telegraphed London, Berlin, Rome and Tokyo,³¹ to deliver note, draft treaty and seven other enclosures consisting of Briand proposal of last June and the six notes subsequently exchanged between France and the United States, Friday, April 13 at 3 p. m. London time, 4 p. m. Berlin and Rome time, and 5 p. m. Tokyo time, respectively. I have also asked that the several Foreign Offices be informed that the texts of the note and draft treaty will be given out in Washington for publication in the afternoon papers Friday, April 13, and that the several Embassies have been instructed to make copies available to the foreign press for publication in Europe and Japan Saturday morning, April 14.

In these circumstances please furnish French Foreign Office with advance copy of note and draft treaty as soon as possible after the receipt of this telegram with the understanding, of course, that they will regard it as confidential until published. At the same time inform the Foreign Office that the notes are to be delivered as above set forth and explain the arrangements as to publication. You should also make copies available to Paris press for publication Saturday morning, April 14, and telegraph text to Berne for informal communication to the Information Section of the League of Nations through Tuck.

Please also express to the Foreign Office my warm appreciation of the cordial spirit of cooperation which M. Briand has manifested throughout the discussions leading up to the present submission, and say that I attach the very greatest importance to the negotiations which are thus being initiated among the six Powers and earnestly hope that our efforts may be crowned with success after a common exploration of the problem by the six Powers, all of whom are equally interested in agreeing upon a practicable method for the promotion of the cause of world peace.

³¹ Telegrams No. 88 to Great Britain, No. 39 to Germany, No. 43 to Italy, and No. 42 to Japan, were sent Apr. 12, 10 a. m.; none printed.

Your 91, April 12, 11 a. m. Amembassies London, Berlin, Rome and Tokyo have been instructed to state when presenting note and enclosures that the submission has been agreed to by M. Briand on the definite understanding so far as France is concerned set forth in paragraphs *a*, *b* and *c* of my 102, April 10, 3 p. m. which paragraphs have been quoted to those embassies in Department's instructions. Please repeat at once to London, Berlin and Rome for their information complete text Department's 102, April 10, 3 p. m.

Please telegraph immediate acknowledgment of receipt of this instruction.³²

KELLOGG

711.9412Anti-War/21

The Ambassador in Japan (MacVeagh) to the Secretary of State

No. 830

TOKYO, April 16, 1928.

[Received May 14.]

SIR: In obedience to the instructions contained in the Department's telegram No. 42, April 12, 1928, 10 A. M.,³³ I asked for an interview with the Minister for Foreign Affairs for Friday, April 13th, at 5 P. M. I was informed that Baron Tanaka could not see me at that hour but would see me at 4 P. M., but that I could see the Vice Minister at 5 P. M., if is [I?] so desired. I therefore took the liberty of making the appointment for four o'clock instead of five o'clock in order that I might deliver the note and other papers to the Minister for Foreign Affairs in person rather than to the Vice Minister.

I stated to Baron Tanaka that, in my opinion, this was a solemn and—I hoped it would prove to be—an historic occasion; that I was proud to be the representative of my country in delivering to Japan, as one of the six great powers of the world, a proposal for joint action toward the establishment of universal peace; that it was the earnest hope of my Government that Japan, in common with the other three great powers to whom this note was now being addressed, would give the subject matter the most careful consideration; and that our joint efforts toward the promotion of the cause of world peace would be crowned with success.

I then explained the situation so far as France is concerned, as set forth in the Department's telegram No. 42, April 12, 1928, 10 A. M., and also called the attention of the Foreign Minister to the clause in the note expressing the desire of my Government for an

³² Receipt acknowledged Apr. 12, 8 p. m.

³³ Not printed; see telegram No. 105, Apr. 12, 10 a. m., to the Ambassador in France, *supra*.

early consideration of the note and draft treaty, and for any expression of his views. Baron Tanaka expressed himself as being in accord, in principle, with the idea embodied in the note and suggested treaty, and stated that he would give the matter careful consideration and as soon as possible would let me know his views. I said that I felt sure that he personally was in full accord with my Government in its desire to put an end to war, and I hoped he would see his way clear to joining with us, and the other four powers, in a treaty substantially as we now suggested, which, if adopted by the six powers, would have a good chance of being adopted by all the countries of the world; and he replied that I was correct in thinking that personally he was anxious to do all in his power toward securing the peace of the world, and would do all that he possibly could to that end.

I explained to the Prime Minister that my instructions were to deliver this note and enclosures to him at 5 P. M., to-day, but as his engagements did not permit him to receive me at that hour, but only at 4 P. M., I had taken the liberty of delivering the papers at four o'clock, as I wished to have the honor of handing them in person to the Foreign Minister; but that I should be glad if he would consider them as delivered at 5 P. M., the time named in my instructions, and to this he smilingly assented.

I then stated, that, as instructed by my Government, I proposed to give the note and suggested treaty to the Press this afternoon, so that they might appear in the Tokyo papers to-morrow morning, and asked whether he had any objection to this course. He replied that he had no objection.

On coming out of the room of the Minister for Foreign Affairs I met Mr. Debuchi, who asked me whether I proposed to give to the Press any of the papers I had handed to Baron Tanaka. I said that I intended to give to the Press the note and suggested Treaty, and asked if he, Mr. Debuchi, had any objection. He replied that he did not see any reason why we should not do so, but merely wanted to know—possibly, I thought, having in mind that he would give them to the Press if we did not do so.

I have [etc.]

CHARLES MACVEAGH

711.6212Anti-War/18

The Ambassador in Germany (Schurman) to the Secretary of State

No. 3411

BERLIN, April 17, 1928.

[Received April 30.]

SIR: Confirming my telegram No. 72 of April 13, 7 p. m.,⁸⁴ I have the honor to transmit herewith, in copy and translation, Dr. Strese-

⁸⁴ Not printed.

mann's formal acknowledgment of the receipt together with his reply to the Note proposing a multilateral treaty to prevent war and its enclosures and the draft treaty presented by me on the 13th instant.

As stated in my telegram, Dr. Stresemann has requested that this communication from him be not given to the press.

I have [etc.]

JACOB GOULD SCHURMAN

[Enclosure—Translation]

The German Minister for Foreign Affairs (Stresemann) to the American Ambassador (Schurman)

BERLIN, April 13, 1928.

MY DEAR MR. AMBASSADOR: I beg to enclose herewith the text of the statement which I had the honor of making to you today when, in the name of the American Government, you handed me the text of the notes regarding the pact to renounce war.

May I request that you be so kind as not to give any of these statements to the press.

I avail myself [etc.]

STRESEMANN

[Subenclosure—Translation]

Statement Made by the German Minister for Foreign Affairs (Stresemann) to the American Ambassador (Schurman)

[BERLIN, April 13, 1928.]

1. We have followed currently with the greatest interest the exchange of notes, the text of which has indeed already been known from the press and has also been placed unofficially at our disposal by the American Government, so that we are already informed as to the position of the matter in its essentials.

2. Since it was at the outset a question of Franco-American negotiations, we have refrained from publicly taking any position in order to avoid creating the impression that we wished to mix in any way in the negotiations. I nevertheless thought it appropriate to give expression in a general way in my last formal speech in the Reichstag to our great interest in the matter.

3. We have welcomed it in an extraordinary degree that the American Government has from the first been determined not to content itself with a treaty between America and France but has taken the initiative of M. Briand as an occasion to work out a fundamental structure of peace among the most important world powers. The exchange of notes seems indeed to have already achieved at least the result that France and America are agreed upon this point.

4. The two underlying thoughts of the original Briand proposal are completely identical with the underlying conceptions of German

foreign policy. It is indeed one of the most essential foundations of German foreign policy to eliminate all armed conflicts and to create instead, so far as it is at all possible, a regulated pacific procedure for all kinds of State conflicts. For Germany it is a question of an ideal motive: to secure peace and on the other hand to establish regular processes for the settlement of conflicts. I therefore hope most assuredly that the plan so energetically furthered by the American Government will actually be realized.

5. I can candidly say that I do not understand in all points the difficulties which the French Government apparently finds and has set out in its numerous reservations. Without going into details, I believe that I can say even now that to my mind there seems to be in the American pact idea no contradiction to the League of Nations. Nor is Germany hindered by any of the treaties concluded by her from adhering to a general pact of this kind. Some of the French reservations, it seems to me, are self-explanatory. It is perfectly clear that it is not intended to deprive a State of the right of defense against attack. It is no doubt likewise clear that if a State violates the anti-war pact the other parties to the pact are no longer under obligation to the peace breaker. That the pact shall be open also to all States not included among those invited to participate at this time seems to me entirely reasonable. However, it will surely suffice if the states first concluding the treaty make it possible for the other countries to adhere later.

6. We will expedite our answer to the American note as much as possible. I take it for granted also that it will not be necessary to await the eventual formation of the new Cabinet. In these fundamental questions there can be no difference of opinion among the various German political parties.

711.5112France/272

Memorandum by the Under Secretary of State (Olds) of a Conversation With the Counselor of the French Embassy (Sartiges), April 20, 1928

Count de Sartiges called this afternoon at 4:20 and handed me the French text of the draft anti-war treaty which M. Briand is submitting for the consideration of this Government, and the British, German, Italian and Japanese Governments. Count de Sartiges said that no transmitting note had been prepared and that M. Briand had instructed the Embassy to explain that his draft was being submitted in the same spirit that the American draft had been transmitted last week to the interested Governments. He added that M. Briand had expressed a desire to receive the comments of this Government on the

draft treaty, but he said he realized, of course, that the United States would require some time to consider the draft before it would be in a position to comment thereon.

Count de Sartiges said that he understood that the draft treaty was to be published in Paris as soon as the Foreign Office had been informed of its delivery in the five Capitals, and that it would then, of course, be available for release to the American press. He offered to telegraph to Paris for information as to the exact time of release, and said he would inform the Department so that translations of the draft could be given by the Department to the Washington correspondents.

R[OBERT] E. O[LDS]

711.5112 France/272

*French Draft of Treaty for the Condemnation and Renunciation of War as an Instrument of National Policy*³⁵

[Translation]

The President of the German Empire, the President of the United States of America, the President of the French Republic, His Majesty the King of England, Ireland and the British Dominions, Emperor of India, His Majesty the King of Italy, His Majesty the Emperor of Japan:

Equally desirous not only of perpetuating the happy relations of peace and friendship now existing among their peoples, but also of avoiding the danger of war between all other nations in the world,

Having agreed to consecrate in a solemn act their most formal and most definite resolution to condemn war as an instrument of national policy and to renounce it in favor of a peaceful settlement of international conflicts,

Expressing, finally, the hope that all the other nations of the world will be willing to join in this humane effort to bring about the association of the civilized peoples in a common renunciation of war as an instrument of national policy, have decided to conclude a treaty and to that end have designated as their respective plenipotentiaries:

The President of the German Empire:

The President of the United States of America:

The President of the French Republic:

His Majesty the King of Great Britain, Ireland and the British Dominions, Emperor of India:

His Majesty the King of Italy:

His Majesty the Emperor of Japan:

who, after exchanging their full powers found to be in good and due form have agreed on the following provisions:

³⁵ Handed to the Under Secretary of State by the Counselor of the French Embassy on April 20.

ARTICLE ONE

The High Contracting Parties without any intention to infringe upon the exercise of their rights of legitimate self-defense within the framework of existing treaties, particularly when the violation of certain of the provisions of such treaties constitutes a hostile act, solemnly declare that they condemn recourse to war and renounce it as an instrument of national policy; that is to say, as an instrument of individual, spontaneous and independent political action taken on their own initiative and not action in respect of which they might become involved through the obligation of a treaty such as the covenant of the League of Nations or any other treaty registered with the League of Nations. They undertake on these conditions not to attack or invade one another.

ARTICLE TWO

The settlement or solution of all disputes or conflicts of whatever nature or origin which might arise among the High Contracting Parties or between any two of them shall never be sought on either side except by pacific methods.

ARTICLE THREE

In case one of the High Contracting Parties should contravene this treaty, the other Contracting Powers would *ipso facto* be released with respect to that Party from their obligations under this treaty.

ARTICLE FOUR

The provisions of this treaty in no wise affect the rights and obligations of the Contracting Parties resulting from prior international agreements to which they are parties.

ARTICLE FIVE

The present treaty will be offered for the accession of all Powers and will have no binding force until it has been generally accepted unless the signatory Powers in accord with those that may accede hereto shall agree to decide that it shall come into effect regardless of certain abstentions.

ARTICLE SIX

The present treaty shall be ratified.

The ratifications shall be deposited at ; within three months from the date of the deposit of the ratifications it shall be communicated by the Government of to all the Powers with an invitation to accede.

The Government of will transmit to each of the signatory Powers and the Powers that have acceded a duly certified copy of the instruments of accession as they are received.

One year after the expiration of the three months' period provided in Article Five, the Government of will send out a statement of the signatories and accessions to all the Powers that have signed or acceded.

In witness whereof the above named plenipotentiaries have signed this treaty and sealed it with their seal.

Done at in . . . copies drawn up in French and English and all having equal force.

. 1928.

711.5112France/274 : Telegram

*The Secretary of State to the Ambassador in France (Herrick)*³⁶

[Paraphrase]

WASHINGTON, April 21, 1928—6 p. m.

117. The French draft of the anti-war treaty seems entirely unacceptable, but you will please avoid any discussion of matter awaiting receipt of full advice on our position which you will receive by cable early in coming week.

KELLOGG

711.5112France/284 : Telegram

*The Secretary of State to the Ambassador in France (Herrick)*³⁷

WASHINGTON, April 23, 1928—5 p. m.

118. [Paraphrase.] Department's No. 117, April 21, 6 p. m. Please repeat following telegram immediately to Embassy in Great Britain as Department's No. 97, referring to Department's No. 95, April 21, 6 p. m.; to Embassy in Germany as Department's No. 43, referring to Department's No. 42, April 21, 6 p. m.; and to Embassy in Italy as Department's No. 49, referring to Department's No. 48, April 21, 6 p. m.³⁸ and let its contents guide you in any discussions you may have at Foreign Office. [End paraphrase.]

On April 13 you transmitted to the Government to which you are accredited a copy of M. Briand's original draft treaty for the renunciation of war between France and the United States, a copy of the correspondence exchanged on that subject and a preliminary

³⁶ The same telegram was sent to the Embassies in Great Britain (No. 95), Germany (No. 42), Italy (No. 48), and Japan (No. 47).

³⁷ The same telegram, with the omission of the first paragraph, was sent to the Embassy in Japan as No. 48.

³⁸ See footnote 36, *supra*.

draft of a treaty representing in a general way the form of multi-lateral anti-war treaty which the United States is prepared to sign. In your note of transmittal you stated that the United States would be pleased to be informed whether the Government addressed was in a position to give favorable consideration to the conclusion of a treaty such as that suggested, and if not, what specific modifications would make it acceptable. No formal reply to this inquiry has been received from any Government but informal comment has been made as follows:

The British Government has indicated a genuine interest in the proposal of the United States and attaches such importance thereto that its answer will be prepared only after consideration by the entire Cabinet and consultation with the Self-Governing Dominions. The Japanese Government has given its approval in principle and promises carefully to consider the text of the draft treaty. The Italian Government has made no comment. The German Government has expressed the earnest hope that the proposal of the United States would be actually realized and has explicitly stated that there seems to be in the draft treaty suggested by the United States no contradiction to the League of Nations, adding that Germany is not hindered by any of her treaties from becoming a party to a multilateral treaty of the kind proposed by this Government. The French Government transmitted on April 20 to the British, German, Italian and Japanese Governments and to the United States a draft anti-war treaty apparently intended as an alternative to the draft proposed by the United States.

A simple comparison of the two drafts discloses the extraordinary difference not only between the French and American concepts but also between the present French position and that illustrated by M. Briand's original proposal, for, as you are aware, the first two articles of the American draft treaty are practically identical with the corresponding articles of M. Briand's treaty of last June. In its present form the French draft treaty is wholly unacceptable to the United States since it cannot in any respect be regarded as an effective instrument for the promotion of world peace. It emphasizes war, not peace, and seems in effect to be a justification rather than a renunciation of the use of armed force. The United States will sign no treaty of the nature now under discussion which cannot reasonably be expected to lessen the danger of an outbreak of war and thus promote the cause of world peace.

In reserving the right to go to war in the many circumstances enumerated in the French draft, France goes even farther than was to be expected from the position taken in her correspondence with the United States during the past few months, and if the present draft

represents the limit to which the French Government is prepared to go in renouncing war by treaty, it is idle for the United States to endeavor to seek an agreement with France, the respective positions of the two Governments in that event being totally irreconcilable. The United States does not believe that world peace and national security are best guaranteed by military alliances or by the threatened application of military sanctions in certain previously defined circumstances, and the United States will not become a party to any international agreement which, while ostensibly devised for the preservation of peace, finds its ultimate expression in a resort to arms and perpetuates a system of international alliances. No treaty is an absolute guarantee against war and the United States does not believe that the conclusion of a treaty such as it has proposed will preclude the possibility of another war. It does believe, however, that the danger of war would be greatly lessened were the Powers of the world to join in such an instrument as it has suggested.

I am, however, unable to believe that France intends rigidly to insist upon the form of treaty which she submitted on April 20. Neither can I believe that the French draft accurately represents the views of the other interested Powers. I am therefore still hopeful that a form of treaty may be agreed upon which records unmistakably the determination of the nations of the world not to go to war with one another. The United States would gladly sign such a treaty without qualification or reservation. It is prepared, however, to consider any modifications or qualifications of its draft which may be necessary by reason of the special position of any of the interested Governments provided the treaty is not vitiated thereby.

There seem to be six major considerations which the French Government has emphasized in its correspondence and in its draft treaty, namely, that the treaty must not (1) impair the right of legitimate self-defense; (2) violate the Covenant of the League of Nations; (3) violate the treaties of Locarno; (4) violate certain unspecified treaties guaranteeing neutrality; (5) bind the parties in respect of a state breaking the treaty; (6) come into effect until accepted by all or substantially all of the Powers of the world. The views of the United States on these six points are as follows:

(1) *Self-defense.* There is nothing in the American draft of an anti-war treaty which restricts or impairs in any way the right of self-defense. That right is inherent in every sovereign state and is implicit in every treaty. Every nation is free at all times and regardless of treaty provisions to defend its territory from attack or invasion and it alone is competent to decide whether circumstances require recourse to war in self-defense. If it has a good case, the world will applaud and not condemn its action. Express recognition by treaty of this inalienable right, however, gives rise to the same difficulty encountered in any effort to define aggression. It is

the identical question approached from the other side. Inasmuch as no treaty provision can add to the natural right of self-defense, it is not in the interest of peace that a treaty should stipulate a juristic conception of self-defense since it is far too easy for the unscrupulous to mold events to accord with an agreed definition.

(2) *The League Covenant.* The Covenant imposes no affirmative primary obligation to go to war. The obligation, if any, is secondary and attaches only when deliberately accepted by a state. Article ten of the Covenant has, for example, been interpreted by a resolution submitted to the Fourth Assembly but not formally adopted owing to one adverse vote to mean that "it is for the constitutional authorities of each member to decide, in reference to the obligation of preserving the independence and the integrity of the territory of members, in what degree the member is bound to assure the execution of this obligation by employment of its military forces." There is, in my opinion, no necessary inconsistency between the covenant and the idea of an unqualified renunciation of war. The covenant can, it is true, be construed as authorizing war in certain circumstances but it is an authorization and not a positive requirement. The German Government, moreover, which is a member of the League of Nations does not regard itself as barred thereby from becoming a party to the form of anti-war treaty which the United States has proposed.

(3) *The Treaties of Locarno.* If the parties to the treaties of Locarno are under any positive obligation to go to war, such obligation certainly would not attach until one of the parties has resorted to war in violation of its solemn pledges thereunder. It is therefore obvious that if all the parties to the Locarno treaties become parties to the multilateral anti-war treaty proposed by the United States, there would be a double assurance that the Locarno treaties would not be violated by recourse to arms. In such event it would follow that resort to war by any state in violation of the Locarno treaties would also be a breach of the multilateral anti-war treaty and the other parties to the anti-war treaty would thus as a matter of law be automatically released from their obligations thereunder and free to fulfil their Locarno commitments. The United States is entirely willing that all parties to the Locarno treaties should become parties to its proposed anti-war treaty either through signature in the first instance or by immediate accession to the treaty as soon as it comes into force in the manner provided in Article III of the American draft, and it will offer no objection when and if such a suggestion is made.

(4) *Treaties of neutrality.* The United States is not informed as to the precise treaties which France has in mind and cannot therefore discuss their provisions. It is not unreasonable to suppose, however, that the relations between France and the states whose neutrality she has guaranteed are sufficiently close and intimate to make it possible for France to persuade such states to adhere seasonably to the anti-war treaty proposed by the United States. If this were done no party to the anti-war treaty could attack the neutralized states without violating the treaty and thereby automatically freeing France and the other Powers in respect of the treaty-breaking state from the obligations of the anti-war treaty. If the neutralized states were

attacked by a state not a party to the anti-war treaty, the latter treaty would of course have no bearing and France would be as free to act under the treaties guaranteeing neutrality as if she were not a party to the anti-war treaty. It is difficult to perceive, therefore, how treaties guaranteeing neutrality can be regarded as necessarily preventing the conclusion by France or any other power of a multilateral treaty for the renunciation of war.

(5) *Relations with a treaty-breaking state.* As indicated above, there can be no question as a matter of law that violation of a multilateral anti-war treaty through resort to war by one party thereto would automatically release the other parties from their obligations to the treaty-breaking state. Any express recognition of this principle of law is wholly unnecessary.

(6) *Universality.* From the beginning it has been the hope of the United States that its proposed multilateral anti-war treaty should be world-wide in its application, and appropriate provision therefor was made in the draft submitted to the other Governments on April 13. From a practical standpoint it is clearly preferable, however, not to postpone the coming into force of an anti-war treaty until all the nations of the world can agree upon the text of such a treaty and cause it to be ratified. For one reason or another a state so situated as to be no menace to the peace of the world might obstruct agreement or delay ratification in such manner as to render abortive the efforts of all the other Powers. It is highly improbable, moreover, that a form of treaty acceptable to the British, French, German, Italian and Japanese Governments as well as to the United States would not be equally acceptable to most, if not all, of the other Powers of the world. Even were this not the case, however, the coming into force among the above-named six Powers of an effective anti-war treaty and their observance thereof would be a practical guaranty against a second world war. This in itself would be a tremendous service to humanity and the United States is not willing to jeopardize the practical success of the proposal which it has made by conditioning the coming into force of the treaty upon prior universal or almost universal acceptance.

[Paraphrase]

In the foregoing paragraphs of this telegram the position of the Government of the United States is fully and clearly set forth; you are authorized to use any or all of the above exposition, at your discretion, in discussing at the Foreign Office the question of a multilateral treaty for the renunciation of war. You may even seek an opportunity, if you think it desirable, to present in the appropriate quarter views as outlined above. I earnestly hope that sooner or later there may develop out of the discussions which have been initiated among the six powers an acceptable and effective form of treaty for renunciation of war. The important thing is to get peoples and governments to thinking in terms of peace, and I cannot refrain from belief that once the initial inertia is overcome a rapid spread of the treaty's sphere of influence will occur.

Of course I realize that the political problems of Europe are more difficult in some respects than are those of the Americas, and it may be that considerations put forward by France will find more general support than I expect. Under these circumstances and in order to prevent a complete failure of the negotiations—an outcome which in my opinion would be a tremendous disappointment to mankind—I would be willing to have included in treaty a provision recording express understanding that should any party to the treaty become involved in war, then the other parties shall be released, *ipso facto*, from their obligations under the treaty so far as regards the belligerent party. A provision of that nature would satisfy every legitimate requirement of the League of Nations, the treaties of Locarno and any normal treaty guaranteeing neutrality without compromising the fundamental purpose of the anti-war treaty, and would also satisfy any lingering doubts in any quarter on the question of self-defense. Neither the Covenant of the League of Nations, nor the Locarno treaties, nor neutrality treaties or emergencies requiring belligerent acts of self-defense obligate any state to resort to war until a prior act of war has been committed by an offending state. The perpetration of that act would release automatically, under such a clause, the innocent parties to the anti-war treaty and would leave them free to carry out their commitments under the League or Locarno or any others.

At this time I do not wish you suggest inclusion of any such qualifying clause or to make any reference to it in your discussions in any way, but I should be pleased to have you feel out the general situation and to telegraph full report.

KELLOGG

711.4112Anti-War/17 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, April 27, 1928—2 p. m.

[Received 5:18 p. m.]

88. Chamberlain told me yesterday, in regard to the arbitration treaty,³⁹ that the replies from the Dominions were very slow in coming in and that he had now urged immediate action on their part; from his own examination, however, he thought that changes in the text would be necessary. He said that at the moment he was thinking of Egypt, and added that Great Britain also has her "Monroe Doc-

³⁹ See vol. ii, pp. 943 ff.

trine". Probably he will find it necessary to ask for extension of present treaty until he has his reply ready.

He could say nothing in regard to the multilateral anti-war treaty except that its consideration would be approached sympathetically. As yet he has not been able to give it any real study. The French proposal will also require his attention. He said offhand that he thought that a meeting between the Foreign Secretaries probably would be necessary at some later date; he expressed his pleasure at your intimation to Sir Esme Howard ⁴⁰ that you might be willing to come here to meet with them.

Chamberlain said that he would like to speak personally on one matter. His assumption was that you would agree with his view that the right of self-defense was not denied. I replied that of course such a right was inherent and was implicit in any treaty. He asked, What then of the Monroe Doctrine? It was not a part of international law but was merely an expression of our national will; how would the United States regard its violation? I replied, also speaking personally, that I thought he could answer that question himself. I went on to say, however, that this approach to the treaty seemed to me to be precisely the wrong one. The assumption I preferred to make was that if we entered into an agreement to renounce war we did so because we intended to keep it, and that having entered into such an agreement we would not thereupon seek its violation through committing an act of war. What we were talking about was, after all, the renunciation of war, not a search to determine just how far one nation could push another without bringing on war. Chamberlain agreed, but went on to say that this doubt was the one which Briand had in mind. He closed our interview by saying that as soon as the British attitude was determined he would send for me; at that time he would wish to ask me certain questions by way of interpretation.

There are two suggestions which I am venturing to make:

1. Would the addition of a further argument to paragraph headed "Covenant" in your telegram No. 97, April 23,⁴¹ not be helpful? Obviously the League of Nations can function only as soon as the great powers or a sufficient majority of them agree. The entire League structure falls when they seriously disagree. Your proposal takes on special significance at precisely this point; for, as it covers a wider field than the Covenant covers, it thereupon brings into operation the pledges to renounce war made with nations which are not in the League. Therefore it is a new and added security.

2. As Briand has now made counterproposals, I am strongly of opinion that Chamberlain will endeavor to act as mediator between him and you, and thus by degrees gain for himself and Great Britain full credit for whatever treaty may result. My suggestion is, there-

⁴⁰ British Ambassador in the United States.

⁴¹ See telegram No. 118, Apr. 23, 5 p. m., to the Ambassador in France, p. 34.

fore, that it might possibly be expedient to give to American press such a statement as that which is embraced in your telegram No. 97. Its form and tone are admirable, and it is most convincing. As far as we are concerned it defines the possible limits of negotiations, and if a treaty results from them it can be only along the lines that you and not Chamberlain have laid down. Publication would also serve to strengthen popular sentiment in all quarters in favor of your proposal.

I learn that Grey of Falloden, in addressing a large meeting of Laborites and Liberals a couple of days ago in a committee room of Parliament, made statement that he thought treaty should be signed with no reservations, but that each signatory, if it so desired, should make a supplementary statement covering its interpretation of any phrase or portion of the text.

I have heard rumor that because of ill-health Briand may resign within the next fortnight and that Poincaré will take over the Foreign Office.

HOUGHTON

711.4112Anti-War/19 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

[Paraphrase]

WASHINGTON, April 30, 1928—1 p. m.

104. Your No. 88, April 27, 2 p. m. I appreciate greatly your thoughtful message to me. Your two suggestions are excellent and I have already acted upon one of them. Although my intention had been to speak wholly extemporaneously at the dinner of the American Society of International Law on Saturday, April 28, I decided after reading your telegram to use in my speech practically word for word that part of my No. 97, April 23, 5 p. m., containing the six numbered paragraphs.⁴² The last sentence of paragraph 2 in regard to the German position I, of course, omitted. The press has commented very favorably on this explanation of my position.

I agree with you thoroughly on the position you took in discussing the anti-war treaty with Chamberlain. I hope that you will be able to impress on him the desirability of an approach to this question from a broad point of view, not a narrow legalistic one. Our Ambassador in Italy has telegraphed that the French have suggested to Mussolini that question of compatibility of my proposed treaty for renunciation of war with the League of Nations Covenant and the Locarno treaties, et cetera, be referred to a commission of jurists

⁴² See telegram No. 118, Apr. 23, 5 p. m., to the Ambassador in France, p. 34.

representing the principal Locarno powers and Japan.⁴³ I hope that this proposal will not meet with general acceptance. It seems absurd to me that the question of whether the nations of the world should renounce war in their relations with one another should be referred for determination to a commission of jurists. Such a proposal would meet with no popular sympathy in this country, I am sure.

The text of the German reply to my proposal of April 13 arrived from Berlin Saturday.⁴⁴ It seems to be a wholehearted acceptance. I am not telegraphing it to you as I understand that the text will be published in the newspapers tomorrow morning.

KELLOGG

711.6212Anti-War/28

The Ambassador in Germany (Schurman) to the Secretary of State

No. 3473

BERLIN, May 1, 1928.

[Received May 14.]

SIR: With reference to the Department's telegram No. 43, (Paris No. 118) of April 23, 5 p. m., on the question of a multilateral treaty for the renunciation of war, I have the honor to transmit herewith an *Aide Memoire*⁴⁵ thereon which I handed to the Minister for Foreign Affairs, Dr. Stresemann on April 27.

In addition to the foregoing and in confirmation of the Embassy's telegram No. 85 of April 28, 11 a. m.,⁴⁵ I have the honor to transmit, in the original as well as translation, the reply of the German Government, dated April 27, to the note which I handed Dr. Stresemann on April 13 on the same subject (See Embassy's telegram No. 72 of April 13, 7 p. m.⁴⁶)

I have [etc.]

JACOB GOULD SCHURMAN

[Enclosure—Translation⁴⁷]

The German Minister for Foreign Affairs (Stresemann) to the American Ambassador (Schurman)

V. M. 1990

BERLIN, April 27, 1928.

MR. AMBASSADOR: In the note of April 13 and its enclosures Your Excellency informed me of the negotiations between the Government of the United States of America and the Government of France regarding the conclusion of an international pact for the outlawry of war. At the same time you asked me the question whether the Ger-

⁴³ Telegram No. 40, Apr. 27, 6 p. m.; not printed.

⁴⁴ Telegram No. 85, Apr. 28, 11 a. m.; not printed. See despatch No. 3473, *infra*.

⁴⁵ Not printed.

⁴⁶ Not printed; it was in reply to the Department's telegram No. 39, Apr. 12, 10 a. m., footnote 31, p. 27.

⁴⁷ File translation revised.

man Government was disposed to conclude such a pact in accordance with the draft put forward by the Government of the United States or whether it considered certain changes in this draft necessary.

The German Government has studied the question put by you with the care appropriate to the extraordinary importance of the matter. It was possible also in this study to take into consideration the draft treaty which had been drawn up in the meantime by the French Government and handed to the participating powers. As a result of this study I have the honor to inform Your Excellency of the following in the name of the German Government:

The German Government welcomes most warmly the opening of negotiations for the conclusion of an international pact for the outlawry of war. The two main ideas on which are based the initiative of the French Minister of Foreign Affairs and the resulting proposal of the United States correspond fully to the principles of German policy. Germany has no higher interest than to see the possibility of armed conflicts eliminated and a development assured in the life of the nations which would guarantee the peaceful settlement of all international disputes. The conclusion of a pact such as the United States now has in view would certainly bring the nations a good deal nearer to this goal.

As the need of the nations for the assurance of peace since the termination of the World War has already led to other international agreements, the necessity arises for the states concerned to make a decision as to the relationship in which the pact now being planned would stand to these international agreements which are already in effect. You have already, Mr. Ambassador, referred in your note to the considerations which were put forward in this connection by the French Government in its exchange of views with the Government of the United States. So far as Germany is concerned, the Covenant of the League of Nations and the Rhine Pact of Locarno come into consideration as international agreements which might affect the substance of the new pact. Other international obligations of this kind have not been entered into by Germany. Respect for the obligations arising from the Covenant of the League of Nations and the Rhine Pact must, in the opinion of the German Government, remain inviolable. The German Government is, however, convinced that these obligations contain nothing which could in any way conflict with the obligations provided for in the draft treaty of the United States. On the contrary it believes that the binding obligation not to use war as an instrument of national policy could only serve to strengthen the fundamental idea of the Covenant of the League of Nations and of the Rhine Pact.

The German Government proceeds on the belief that a pact after the pattern submitted by the Government of the United States would

not put in question the sovereign right of any state to defend itself. It is self-evident that if one state violates the pact the other contracting parties regain their freedom of action with reference to that state. The state affected by the violation of the pact is therefore not prevented from taking up arms on its own part against the breaker of the peace. In a pact of this kind to provide expressly for the case of a violation seems to the German Government unnecessary.

In agreement with the Government of the United States and with the French Government, the German Government is also of the opinion that the ultimate goal must be the universality of the new pact. In order to bring about this universality, the draft treaty of the United States seems to open a practical way. When the states primarily held in view as signatory powers have concluded the pact it may be expected that the other states will thereupon make use of the right of adhesion which is assured to them without limitation or condition.

The German Government can accordingly declare that it is ready to conclude a pact in accordance with the proposal of the Government of the United States and to this end to enter into the necessary negotiations with the Governments concerned. To this declaration the German Government adds moreover its definite expectation that the realization of a pact of such importance will not fail to make its influence felt at once in connection with the shaping of international relations. Therefore this new guarantee for the maintenance of peace must give a real impulse to the efforts for the carrying out of general disarmament. And further still, the renunciation of war must as a necessary complement enlarge the possibilities of settling in a peaceful way the existing and potential conflicts of national interests.

STRESEMANN

711.4112Anti-War/20: Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, *May 2, 1928—11 a. m.*

[Received May 2—6:45 a. m.]

93. Your 104, April 30, 1 p. m. I am informed that purely as matter of tactics the Government is now inclined to accept without serious discussion your proposal and to approach the entire subject of reservations, interpretations, and similar matters only after the anti-war treaty is signed. I am told also that the Government will urge France to follow the same procedure on ground that too great insistence now on reservations may endanger whole scheme and that the

treaty must inevitably tend to maintain the *status quo* in Europe, the maintenance of which is, of course, the dominant aim of French policy.

I cannot vouch for the foregoing, but it does not seem unreasonable to suppose that British mediation may take that line.

HOUGHTON

711.6512Anti-War/23 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

ROME, May 2, 1928—11 a. m.

[Received May 2—8:55 a. m.]

42. Grandi has given me confidentially copy of the memorandum reply of the Italian Foreign Office to a memorandum of the British Ambassador, dated [April] 28th. The Italian memorandum is dated May 1st and states that in principle the Italian Foreign Office cannot help but consider with sympathy the American proposal of a multi-lateral anti-war treaty.

The Italian memorandum further states that, as it believes uniformity of view amongst the powers called upon to participate is indispensable, it agrees that a preliminary meeting of the legal experts of the said powers should be held. The Italian Foreign Office believes, however, that this meeting would not prove efficacious unless participation therein of a legal expert representing the Government of the United States were assured.

The Italian Foreign Office is also of the opinion that the conference of which Mr. Kellogg spoke to the British Ambassador in Washington could be held subsequently.

Repeated to London.

FLETCHER

711.4112Anti-War/21 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, May 2, 1928—noon.

[Received 1:35 p. m.]

43. My 42, May 2. I am informed by the British Ambassador that his Government has suggested to Italians that an American expert be asked to meet with the juristic experts of other powers, as Sir Austen Chamberlain wishes more than all else to avoid appearance of a united European front opposite the United States. Ambassador said that no place had been suggested for the meeting; perhaps either Paris or London, he thought. He agreed with my view that selection

of Geneva would be unfortunate. The suggestion for a conference of juristic experts apparently did not reach Germany until after the Germans had accepted.

FLETCHER

711.4112Anti-War/25 : Telegram

The Secretary of State to the Ambassador in Great Britain
(Houghton)

WASHINGTON, May 2, 1928—3 p. m.

108. Your 93 May 2, 11 a. m. is encouraging, but the information contained therein does not seem to agree with the action of the British Government reported in Fletcher's 42 May 2, 11 a. m., which has been repeated to you from Rome.

As indicated in my 104, April 30, 1 p. m., I can see absolutely no need for submitting the question to a conference of technical experts. As a matter of fact I would deplore any such step. Both the United States and Germany have been able to take a clear and unequivocal position on this important problem without any consultation with an international conference of jurists, and I can see no reason whatsoever why the other Governments concerned cannot, if they wish, make up their minds with equal independence. I hope you will use your best efforts to discourage the idea of a preliminary conference of jurists.

In your 88, April 27, 2 p. m. you stated that Chamberlain had expressed pleasure at a report from the British Ambassador at Washington that I had intimated to him that I might be willing to come to London to attend a meeting of the various Foreign Secretaries. It appears from Fletcher's telegram that the British Government has already raised with the Italian Government the possibility of holding such a conference as that "of which Mr. Kellogg spoke to the British Ambassador in Washington." I am at a loss to know upon what the British Ambassador could have based any such report to his Government. I have never even contemplated the idea of going to Europe to negotiate with respect to my proposed anti-war treaty, and I can see not the slightest need for a preliminary conference of Foreign Secretaries. A simple form of anti-war treaty has been proposed by the United States for acceptance, modification or rejection. I have never indicated a willingness to go abroad to negotiate the treaty. You should, therefore, explain to Chamberlain that I never suggested a conference of Foreign Ministers for the purpose of negotiating and agreeing upon a form of treaty, and that in my opinion such a conference is wholly unnecessary. The position of the United States is clearly set forth in its notes and in the draft treaty

it has proposed. The position of Germany is no less clearly indicated in its unqualified acceptance of the American proposal. If the United States and Germany can determine their respective positions on this important subject without an international conference, I can see no reason why the British, French, Italian and Japanese Governments cannot do likewise.

KELLOGG

711.4112Anti-War/24 : Telegram

The Secretary of State to the Ambassador in Italy (Fletcher)

WASHINGTON, May 2, 1928—3 p. m.

56. Your 40 April 27, 6 p. m.⁴⁸ and 42 May 2, 11 a. m. I can see absolutely no need for submitting to a formal conference of jurists the question of compatibility between my proposed anti-war treaty and the League Covenant, the Treaties of Locarno, et cetera, and I hope that no such conference is called. A preliminary meeting of Foreign Secretaries is, in my opinion, equally unnecessary and undesirable. I cannot understand the basis for the report from the British Ambassador at Washington to which reference is made in the British memorandum. I have never indicated that I would attend a meeting of Foreign Secretaries to discuss the anti-war treaty. The position of the United States is clearly set forth in its notes and in the draft treaty it has proposed. The position of Germany is no less clearly indicated in its unqualified acceptance of the American proposal. If the United States and Germany can determine their respective positions on this important subject without an international conference, I can see no reason why the British, French, Italian and Japanese Governments cannot do likewise.

KELLOGG

711.4112Anti-War/22 : Telegram

*The Secretary of State to the Ambassador in France (Herrick)*⁴⁹

WASHINGTON, May 2, 1928—6 p. m.

122. I understand that as a result of inquiries by France and England the several interested Governments are considering whether they shall refer to a commission of legal experts representing the principal Locarno signatories, Japan and possibly the United States the question whether the American draft anti-war treaty is compatible with the League Covenant, the Treaties of Locarno, et cetera. I can see absolutely no necessity for any such conference. I am certain that

⁴⁸ Not printed.

⁴⁹ The same telegram was sent to Japan as No. 53.

such a proposal would meet with no popular sympathy in the United States and I hope you will do all you can to discourage the adoption of any such plan.

I am also informed that the British Government understands from a report received from the British Ambassador at Washington that I have expressed a willingness to attend a meeting in Europe of the several Foreign Secretaries to discuss the proposed anti-war treaty. I am at a loss to know upon what the British Ambassador can have based such a report. I have never even contemplated going abroad to discuss or negotiate the treaty. Such a conference of Foreign Secretaries seems to me both unnecessary and undesirable and I hope you will take any favorable opportunity to discourage the adoption of any such proposal. The position of the United States is clearly set forth in its notes and in the draft treaty it has proposed. The position of Germany is no less clearly indicated in its unqualified acceptance of the American proposal. If the United States and Germany can determine their respective positions on this important subject without an international conference, I can see no reason why the British, French, Italian and Japanese Governments cannot do likewise.

Repeat to Berlin as Department's 49.

KELLOGG

711.4112Anti-War/28: Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

[Paraphrase]

BERNE, May 2, 1928—midnight.

[Received May 4—9 a. m.]

47. In a conversation I had this morning with Sir Eric Drummond⁵⁰ he expressed the opinion that there was no inconsistency between our proposal for the condemnation of war and the League of Nations Covenant. This personal opinion he is impressing on all the statesmen with whom he comes in contact, but so far he has failed to convince the French.

As Drummond sees it, the states members of the League are already under the obligation not to make war on one another, and, after having agreed to the proposal we have made, they would all be committed more definitely by their obligations under the Covenant to observance of the Kellogg Pact. Drummond stated further that states members of the League of Nations would be under definite obligation, because of the League Covenant, to take action against another member state which should violate the Kellogg Pact.

WILSON

⁵⁰ Secretary General of the League of Nations.

711.4112Anti-War/23 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, May 3, 1928—1 p. m.

[Received 1:45 p. m.]

112. Your 122, May 2, 6 p. m. I have heard nothing about either a commission of technical experts or a conference of Foreign Secretaries. If I do, I shall endeavor to discourage their adoption.

HERRICK

711.4112Anti-War/29 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, May 3, 1928—5 p. m.

[Received 8:05 p. m.]

95. Your No. 108, May 2, 3 p. m. This morning I spent the better part of two hours with Chamberlain who expressed his great surprise that Chilton⁵¹ should have so misunderstood your attitude toward a meeting of Foreign Secretaries for the consideration of differences of opinion. Proposed meeting of jurists was in accord with Locarno procedure and he had favored it; but in view of fact that you did not, and as without American participation it would be useless, Chamberlain will do what he can to call it off.

He then said that your Washington speech⁵² had been most helpful. We went over each paragraph of it together and he seemed unable to find any weak link in your statement. He brought up the Monroe Doctrine again and asked what reply he could make if some member of the House of Commons should ask him if the treaty would alter the Doctrine's status in any way; he referred to his own recent pronouncement to all the world in regard to Egypt. Were both declarations left undisturbed by the signing of the treaty or did it mean that enforcement of the Monroe Doctrine or of his declaration on Egypt would be by the use of force if either were violated? I replied that I could say no more than to repeat what I had said before. Were he to put the question to me seriously and to ask for an answer, no doubt it could be given. The position of the American Government relative to the Monroe Doctrine, however, I thought had been made fully clear. One question of this sort, I pointed out, brought on others, and soon we should find ourselves traveling a long and difficult path directly away

⁵¹ Henry G. Chilton, Acting Counselor of the British Embassy in Washington.

⁵² Before the American Society of International Law, April 28. See telegram No. 104, Apr. 30, 1 p. m., to the Ambassador in Great Britain, p. 41.

from the goal which we both desired to reach. I was emphatic on the point that we were not conducting an inquiry aimed to ascertain in advance how far each of us could go without war being brought on; instead, by agreeing to renounce war we were making possible thereafter the solution of actual difficulties, as they arose, along peaceful lines. War was still possible. Any nation knew how to bring war about, if it wanted war. We held the belief that if we signed the treaty we meant to maintain it, not break it; that a fine-spun investigation of all the ways by which it could or could not be broken was not helpful or advisable.

To all this Chamberlain had no response to make except by manifesting an evident sense of uncertainty. He again referred to the commission of jurists, and said that by bringing them together he thought he was really forwarding the acceptance of the treaty. I inquired what on earth there was for the jurists to decide. The question was not juridical but political. No doubt each nation would examine its treaty obligations to ascertain whether or not the proposed treaty ran counter to them, just in the way Germany had done. Unless he had some questions of interpretation, I said, besides those that the French and Germans had raised, I frankly was unable to see what there was left to discuss.

Chamberlain then said that he did not think that the German reply indicated that Government's unconditional acceptance of the proposal. He had sent a cable to Stresemann asking him to hold back his answer until Chamberlain could discuss it with him, but that Stresemann had answered that the Government's reply had been accepted by the German Cabinet and could not be delayed. Chamberlain added that in this reply he had been relieved to note that the position of the German Government was very much like that of the British. He disagreed completely with the modifications proposed by the French. He said that the whole situation had been cleared materially by your Washington speech. I then asked him what he thought the net result of your treaty, if it were accepted, would be in Europe. Would it turn out to be an additional bulwark to the work that had been accomplished at Locarno as well as to what the League of Nations had done in a more general way for safe-guarding the peace, or would it damage in some way what had been accomplished? Chamberlain unhesitatingly replied that of course it would strengthen what had been accomplished. I said that if that were true, I could not think of any nation with more to gain by coming out quickly and accepting it than Great Britain, unless perhaps it were France. He replied that if he signed the treaty he must be sure that no possibility existed that difference on some action taken at a future date by Great Britain which the British felt to be within the treaty and which the United States did not,

could not be resolved. That eventuality would open way to a very dangerous dispute. I said that I thought that a much greater danger would be suspicion among people of the United States that after Great Britain had been offered an opportunity to preserve the peace, she had preferred, for ulterior reasons, to maintain her right to break the peace. I urged him with great seriousness not to be the last to accept your proposal; there was too much at stake between us. Chamberlain thanked me and said that our conversation had been of valuable assistance to him, and had cleared away many of his difficulties. At the moment my impression is that Chamberlain has not a leg left to stand on, and that the public statement which you made last Saturday night has achieved its purpose fully.

When I rose to go, Chamberlain again referred to Mr. Chilton's misunderstanding of your views. I said that while of course I did not know what was in your mind, it was possible that in order to give the treaty greater emphasis, if it were accepted, but not to discuss it, you might have thought that a meeting of the Foreign Ministers would be useful. He responded warmly that undoubtedly it would, and that he hoped that if the meeting were held, it would be in Washington, and that he himself would like to be present.

Please let me know if I am cabling these interviews too fully. I am anxious that Chamberlain's thoughts be placed clearly before you, and that cannot be done briefly.

Apropos of the foregoing, the French Ambassador told me last night after dinner, when I had inquired regarding Briand's health, that the Minister was recovering, and that had he not been ill the most recent French note would not have been sent. The Ambassador wishes to talk with me; and, unless you see some good reason why I should refrain, I think I shall see him within the next day or two. I think that to go over your Washington statement with him might be very effective, for, as you know, he is a close personal friend of Briand.

HOUGHTON

711.4112Anti-War/35 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

[Paraphrase]

WASHINGTON, May 4, 1928—2 p. m.

111. Your No. 95, May 3, 5 p. m. Greatly appreciate your telegram. No objection perceived to your talking with Fleuriau, who I am quite sure is right about Briand. I desire you to cable fully regarding all interviews and information that you may receive.

KELLOGG

711.4112Anti-War/30 : Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

TOKYO, May 4, 1928—5 p. m.

[Received May 4—10:25 a. m.]

55. Department's telegram 53, May 2, 6 p. m.⁵³ Foreign Office informs Embassy that French Ambassador called afternoon May 2nd and officially requested Japanese Government to be represented on commission of legal experts. French Ambassador added that he understood American Government was favorable to the proposal. Vice Minister for Foreign Affairs informed French Ambassador that Japanese Government would be willing to participate in such a conference provided all six powers—that is, including the United States—were represented. This reply of Mr. Debuchi's was approved yesterday by the Minister for Foreign Affairs.

Upon contents of Department's telegram number 53 being brought to the attention of Vice Minister, the latter stated that Japanese Government would of course reconsider its position as its reply to French Ambassador had been made on understanding that the United States would participate. Mr. Debuchi expressed personal opinion that the Japanese Government would not be willing to join any such conference if the United States was not willing to participate.

Embassy understood Japanese reply to French Ambassador was cabled to Japanese Ambassador Paris May 2nd with instructions to repeat to Japanese Embassy Washington, so presume [latter] is in position to confirm.

With respect to the meeting in Europe of Foreign Secretaries mentioned in second paragraph of Department's telegram, Mr. Debuchi stated that the Japanese Chargé d'Affaires had telegraphed from London his understanding that you had consented to participate in such a conference. Mr. Debuchi said that the Italian Chargé d'Affaires here had first mentioned to him the possibility of such a conference three days ago when Mr. Debuchi had scoffed at the idea of Baron Tanaka['s] being absent to attend, adding that he supposed it was not meant to be taken literally; that the Foreign Minister could designate a representative in which case Japan would probably designate the Japanese Ambassador in Paris. Here again however he emphasized his personal conviction that Japan would not participate in any conference not attended by the United States adding that "you know we are not interested in Locarno," and intimated wisely that they were far from Europe and League affairs.

MACVEAGH

⁵³ See footnote 49, p. 47.

711.4112Anti-War/36 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

[Paraphrase]

WASHINGTON, May 4, 1928—6 p. m.

112. Your No. 95, May 3, 5 p. m. Yesterday in conversation with the French Ambassador, M. Claudel was given clearly to understand that in our opinion the idea of a conference of jurists was not best way of dealing with the situation; that a conference of that sort was wholly unnecessary; that instead of simplifying the problem, it would complicate it; and that proposal of any such conference would have an unfortunate effect on American public opinion. The Ambassador undertook to cable these views to French Government.

In another conversation yesterday with the British Ambassador, Sir Esme Howard stated that origin of the report that I would be willing to go to Europe to negotiate the anti-war treaty was in a talk which I had with Mr. Chilton some two weeks ago at a dinner party, and which Mr. Chilton construed as indication on my part of willingness to go abroad to negotiate the treaty, if necessary, but in any event to go to sign the treaty should one be agreed upon. Sir Esme was told that Mr. Chilton must not have understood what I said; for, while I might indeed have remarked that I would go abroad, were it necessary, to sign the treaty, the thought of doing so for the purpose of negotiation was altogether foreign to any intention I had; that I had never even considered the possibility of taking such a step. Howard is cabling British Government to correct erroneous impression caused by earlier report from Embassy here.

Also in course of conversation yesterday with the German Ambassador, latter was told frankly what our position was on French proposal regarding a conference of jurists. He concurred in our views, and stated that from now on the German Government meant to cooperate fully with the United States.

The American Ambassador in Japan has just telegraphed as follows in reply to a telegram similar to Department's No. 108, May 2, 3 p. m. to you:

[Here follows text of first, second, and fourth paragraphs of telegram No. 55, May 4, 5 p. m., from the Ambassador in Japan, printed on page 52.]

I shall try to keep you fully advised of all significant developments. Please do not hesitate to telegraph me, however, if there is any information you need or any questions you desire answered.

KELLOGG

711.4112Anti-War/42 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, May 7, 1928—noon.

[Received May 7—10:15 a. m.]

99. Fleuriau came to see me late yesterday. He said that he was convinced that some sort of meeting, whether of jurists or not, will be found to be necessary before the treaty can be put in final form. He urged particularly that matters be not hurried too much. French opinion which up to now has taken proposal somewhat lightly is beginning to look at it more seriously and time must be given for this opinion to crystallize. Fleuriau said that the French *amour propre* had been somewhat disturbed by fact that you have now assumed control of the negotiations, but he doubts that this feeling will prove serious obstacle.

His most interesting statement was that France would not find it at all easy to sign a treaty which Czechoslovakia, Poland, and Yugoslavia cannot also sign. He had reason to think that Poland favored the treaty, but Yugoslavia's attitude was unknown to him. He felt that Czechoslovakia was somewhat unfriendly, for when he had talked with Beneš⁵⁴ about a week ago the latter saw many difficulties in the way. Within the next few days he expects to see Beneš again, and said he hoped that I, too, would take advantage of Beneš' presence here at the present moment to go over the situation with him. French acceptance will be made much easier if the three states mentioned above agree.

As for himself, Fleuriau is in favor of the treaty, provided that your interpretation of its meaning, substantially as given in your Washington address, can be put into a more precise and authoritative form. He thought that it might appear in preamble of the treaty. He wishes to talk with me again a little later on, and hopes that by that time he will be in a position to outline the French position more clearly. He repeated several times that much would be accomplished if your point of view could be given to Poincaré as frankly and directly as we had discussed them.

I shall not attempt to approach Beneš unless you think that, taking everything into consideration, some useful purpose would be served by my doing so, as I do not wish to interfere with any action that Einstein⁵⁵ may be taking. Please instruct by cable.

HOUGHTON

⁵⁴ Eduard Beneš, the Czechoslovak Minister for Foreign Affairs.

⁵⁵ Lewis Einstein, American Minister in Czechoslovakia.

711.4112Anti-War/45 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

[Paraphrase]

WASHINGTON, May 7, 1928—3 p. m.

114. Your No. 99, May 7, noon. I think that for you to have a general and informal talk with Beneš when you can see him would be a good plan. I do not see that to do this would in any way interfere with Einstein, as at this time I am not negotiating with Czechoslovakia, but only with the five powers. I stated in my Washington speech, however, that I would be quite willing to have any of the parties signatories to the Locarno treaties made parties to the proposed treaty, either in first instance or later; and, as long as Beneš understands that I am not at this moment presenting matter officially to his Government, I think that it would be useful for you to have a talk with him.

KELLOGG

711.6512Anti-War/41

The Ambassador in Italy (Fletcher) to the Secretary of State

No. 1682

ROME, May 8, 1928.

[Received May 23.]

SIR: Confirming my telegram No. 47 of May 5, 12 noon,⁵⁶ I have the honor to forward herewith a copy and translation of the reply of the Italian Government regarding the proposed multilateral anti-war treaty.

I have [etc.]

HENRY P. FLETCHER

[Enclosure—Translation]

*The Italian Minister for Foreign Affairs (Mussolini) to the
American Ambassador (Fletcher)*

224182/82

ROME, May 4, 1928.

MR. AMBASSADOR: I have the honor to refer to my note of April 23rd⁵⁷ relative to the proposal of the United States Government regarding a multilateral anti-war treaty.

I hardly need to assure you that Italy, adhering to the policy which she is constantly following, has welcomed with lively sympathy this initiative and offers very willingly her cordial collaboration towards reaching an agreement.

⁵⁶ Not printed.⁵⁷ Acknowledging receipt of the American note of April 13, and promising an early reply; not printed.

Your Excellency is aware of the fact that there is under consideration the proposal for a preliminary meeting of the legal experts of the Powers whose direct interest in the proposed treaty has been enlisted. The Royal Government has adhered to this procedure, but has clearly pointed out that, in its opinion, such a meeting can only be effective if the participation of a legal expert of the Government of the United States is assured.

In accordance with this order of ideas, I beg Your Excellency to communicate to Mr. Kellogg the lively desire of the Royal Government that the participation of the United States in the preliminary meeting mentioned above be not lacking.

I avail myself [etc.]

MUSSOLINI

711.6512Anti-War/35 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, May 8, 1928—3 p. m.

127. Following reply from Italian Government in the matter of American proposal for anti-war treaty will be published in Thursday morning newspapers May 10:

[Here follows text of the Italian note of May 4, printed *supra*.]

Reference to proposed conference of jurists has no new significance at this time, Italian Foreign Office stating in reply to inquiry that while such reference may have been based on a misunderstanding, Italy desires that note be published as Italian Government is anxious to show its friendly and favorable disposition towards the American proposal and regards the conference idea as secondary. Fletcher reports that Foreign Office states that British proposal for jurists conference has been abandoned but that Italy has received no indication that France has abandoned her position with regard to the necessity for such a conference. Fletcher adds that in his opinion Italy will not prove insistent in the conference matter. My views of course remain unchanged and I hope no conference is called.

Repeat to Berlin as Department's 51.

KELLOGG

711.4112Anti-War/47 : Telegram

The Minister in Canada (Phillips) to the Secretary of State

OTTAWA, May 8, 1928—3 p. m.

[Received 4:15 p. m.]

87. Legation's 83, May 4, 11 a. m.⁵⁸ In conversation with the Under Secretary this morning he said that there had been some ques-

⁵⁸ Not printed.

tion in the minds of the Prime Minister and himself as to how much the note of the United States to the British Government on the subject of the anti-war pact was meant to apply to the Dominions, including Canada.

He expressed himself as uncertain whether the United States would expect Canada to participate in the original treaty or whether Canada and other Dominions would be invited subsequently to conclude a separate agreement with the United States.

PHILLIPS

711.4112Anti-War/48 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, *May 9, 1928—noon.*

[Received May 9—8:40 a. m.]

101. Last evening after the Court, Chamberlain took me aside to say that he was preparing a note which he would base substantially upon the German formula, the last paragraph being entirely recast.

Chamberlain said that he was highly gratified to be advised by Howard that you do not wholly exclude a conference of jurists. My assumption had been to the contrary. I have therefore emphasized in my conversations that the question at issue was not juridical but political and was wholly for each Government to decide for itself and that all thought of the jurists' conference had been abandoned. If Howard's statement is correct, however, and you wish to leave door still open for conference, please advise me. Concerted action of some sort will doubtless be necessary before the treaty is ready for signature, but I had thought that this work could properly and naturally be done by the Ambassadors in Washington, informally and wholly under your direction. I know that the French Ambassador here had some such notion in mind, and I think that Chamberlain had also.

I am to see Beneš today at noon.

HOUGHTON

711.4112Anti-War/54 : Telegram

The Secretary of State to the Ambassador in Great Britain (Houghton)

[Paraphrase]

WASHINGTON, *May 9, 1928—4 p. m.*

116. Your No. 101, May 9, noon. Although I have done all that I could to discourage idea of a conference of jurists, pointing out that

in my opinion no such conference is at all either necessary or desirable, I have been careful to refrain from stating flatly that this Government would decline to be represented at such a conference. My feeling that a conference of jurists is both unnecessary and undesirable is as strong as ever, and I earnestly hope that no formal proposal looking to the convening of such a conference will come from any quarter. I am very doubtful if the United States would be willing to send a jurist to a preliminary conference of that nature. Of course, each Government is now consulting its legal advisers but, as you have said, the main question is not juridical but political and entirely for each Government to decide for itself.

I am greatly pleased to learn that Chamberlain is preparing his reply; from his description I gather that it will be favorable. Once more I wish to congratulate you on the admirable manner in which you have conducted the discussions with him.

KELLOGG

711.4112Anti-War/53 : Telegram

The Secretary of State to the Minister in Canada (Phillips)

WASHINGTON, May 9, 1928—5 p. m.

52. Your 87, May 8, 3 p. m. It is not a question of an "original treaty" and a subsequent "separate agreement with the United States". This Government has proposed a single multilateral treaty for signature in the first instance by the six Powers named in the preamble of the draft submitted with the identic notes of April 13. After the treaty comes into force it remains open for subsequent accession by all the other Powers of the world. (See Article III). The draft treaty describes the British Sovereign as "His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India", which is his imperial title. The question as to when and how Canada should be bound by the treaty appears to me to be primarily one of Empire policy, and in such cases the United States is careful to negotiate through London, even when, as in the case of Ireland and Canada, independent diplomatic representatives are stationed at Washington. I have, of course, talked informally with Massey⁵⁹ about the general subject, and I see no reason why you should not informally acquaint the Foreign Office with the fact that the United States would warmly welcome Canadian participation in the treaty at any time and in any manner that may be agreed upon by the Governments at London and Ottawa.

KELLOGG

⁵⁹ Vincent Massey, Canadian Minister in the United States.

711.4112Anti-War/50 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, *May 9, 1928—5 p. m.*

[Received May 9—3:50 p. m.]

102. Your No. 114, May 7, 3 p. m. I saw Beneš today. He recalled our former meetings and said that he was pleased to have an opportunity for discussion with me of the very important measures now under consideration. He was in close touch with the sentiment in the French Foreign Office as well as with that in the British, and he thought that his relations with the powers of Central Europe made him fully cognizant of their feeling also. Everybody, of course, wanted peace. In principle he could agree with every effort in that direction, and he welcomed warmly the approach that America was now making to Europe. He felt that it showed American approbation toward what had been accomplished in the past few years in Europe to maintain peace. He was ready to think that your proposal would strengthen these efforts in the way of accomplishment and would tend to maintain the *status quo*; but at the same time he was a political realist: He must know exactly what it was that he was asked to sign. As a step in that direction he had read your notes, and had been especially interested in your Washington speech, which had dissipated most of his doubts.

He then raised the following four points: (1) self-defense; (2) the League Covenant; (3) the Locarno pact; (4) the defensive treaties between Czechoslovakia and France and between Czechoslovakia and the members of the Little Entente.

We took up these points in order, after some general discussion, and I read the appropriate paragraphs from your Washington speech. Beneš did not seem wholly satisfied with the answer to his fourth question. I repeated that if, as he said, his commitments were in fact defensive, they could begin to operate only in the event of attack, and that my understanding of your position was that in such an event he was left free toward the attacking power. This statement seemingly satisfied him; at least, he said finally that his fears had now been removed and asserted that he would favor the treaty here in London and also in Paris, as well as at a meeting of the Little Entente Powers which he intimated between ourselves might take place in about a month. He thought that any difficulties between Washington and Paris could now be easily removed.

I said that I had had no information on the attitude of Yugoslavia; and Beneš replied that Yugoslavia had not yet taken any position. He added that that country and Rumania would doubtless adopt the same attitude toward the treaty that France would take. He remarked, incidentally, that King Carol was now definitely out of Rumanian politics and would not hereafter figure seriously therein.

As I started to take my leave, Beneš halted me to say that the arbitration treaty between Czechoslovakia and the United States was now in his possession;⁶⁰ that in principle he saw nothing to occasion dispute, and that on his return to Prague he would act on it favorably. These statements were for your private information.

The net result of this interview is that I incline to the opinion that Beneš really is in favor of the treaty. I also think that his influence, which is, of course, great, will be exerted to bring the French Foreign Office to a more favorable mood. At the same time, I doubt that he will take a position which is antagonistic to Paris. He wished to extend to you through me his cordial regards and good wishes.

HUGHTON

711.4112Anti-War/56: Telegram

The Minister in Canada (Phillips) to the Secretary of State

OTTAWA, May 10, 1928—2 p. m.

[Received 4 p. m.]

89. Department's 52, May 9, 5 p. m. I informally brought to the attention of the Foreign Office the sense of the last paragraph of the above.

The Under Secretary stated that he knew that the Prime Minister would be much gratified by this cordial expression.

He further informed me that from Canada's point of view her initial inclusion in the treaty proposed to London would be desirable and that, provided such a course could be agreed upon by the governments at London and Ottawa, an inquiry might be necessary either through the British Ambassador or the Canadian Minister at Washington or both as to whether such a course would be acceptable to the United States.

Details by despatch.⁶¹

PHILLIPS

⁶⁰ See vol. II, pp. 688 ff.

⁶¹ Not printed.

711.4112Anti-War/58 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, *May 11, 1928—1 p. m.*

[Received 3:30 p. m.]

103. I greatly appreciate your kind message in your telegram No. 116, May 9, 4 p. m. If not too bold, I should like to submit the following views:

I am doubtful if you are aware how tremendously strong your position now is. You can direct the course of the negotiations almost at will. All that is necessary for you to do is to make your decisions known. As long as your present attitude is maintained, of insisting that your proposal is simple and straightforward and does not need elaborate explanations and reservations, the treaty will gain support and will be accepted in the end. If for any reasons, however appealing, you should take part in a conference of any sort, I fear that you will be drawn directly and inevitably into discussion of possibilities both hypocritical and wholly without foundation, which may easily wreck the entire plan, and which of course the opponents of the treaty would like to bring about, even though they dare not admit it openly. Whatever consultations on phraseology are necessary can be carried on, under your guidance, with the Ambassadors in Washington.

Opponents were utterly confounded by your Washington address.⁶² The difficulty which now remains is to tie up your interpretation to the treaty. If you are able now to secure the treaty by embodying therein, in the form of a preamble, precisely those declarations which you set forth in your Washington address and then submit the treaty completed in that form to all concerned and then proceed promptly to make it public, I believe that its acceptance will be substantially assured. The several powers will no doubt suggest those changes in phraseology which you said were indifferent to you. You are in a position where you can accept them or not, as you wish. The only point which is vital is that you keep the initiative which is now yours, and center the discussion around treaty as a whole. In his speech yesterday in the House of Commons, Chamberlain stated that Great Britain had no commitments which prevented acceptance of your proposal. This declaration must be taken, however, in connection with the other statement he made that Great Britain never uses

⁶² See telegram No. 104, Apr. 30, 1 p. m., to the Ambassador in Great Britain, p. 41.

war as an instrument of national policy. You will recall that some weeks ago Chamberlain expressed his belief that Great Britain's relations with France are all-important for European peace. Now that he has put Great Britain in the right, he would like to be the mediating influence to bring in France. It appears to me, though, that if a complete form of treaty were to be submitted to the several powers for their comment, it would be necessary for the French to deal with you directly. Even though thus circumvented, Chamberlain will not oppose the treaty; his influence will in any event be directed to its support.

Beneš is being very active here. As far as I am able to learn, he is urging acceptance of treaty. Today or tomorrow I shall see the French Ambassador. The Polish Minister wishes to talk with me Monday. I think nothing of importance can develop here after that until Poland's position and that of Little Entente has been determined in consultation with the French; that means, apparently, a delay of some weeks. Pray do not think that I am trying to take part in matters which are not my affair. Our pride in the great progress you have made perhaps makes us too eager to offer suggestions.

HOUGHTON

711.4112Anti-War/60 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, May 12, 1928—1 p. m.

119. For your information I quote below text of an *Aide Memoire* received yesterday from the British Embassy :

“Sir Austen Chamberlain has instructed His Majesty's Ambassador to convey to the Secretary of State his thanks for the latter's friendly message and particularly for the expression of willingness to reconsider the question of a conference of Ministers if it should ultimately prove necessary in order to secure agreement with the other Powers. Sir Austen Chamberlain entirely agrees with the Secretary of State that in no case should such a conference be held until the matter has been further prepared, and agreement is practically within sight. It was for this reason that, believing the Secretary of State to desire a meeting of Ministers, Sir Austen Chamberlain tentatively suggested that it should be preceded by a meeting of jurists including an American jurist, for he thought that an informal and non-committal discussion by them would, as in the case of the Locarno discussions, do the necessary preliminary work and bring the governments within sight of, if not actually to, an agreement of all six powers, which it is the desire of His Majesty's Government, no less than the United States Government, to reach as rapidly as possible.

On hearing, however, from the United States Ambassador that Mr. Kellogg was not favourably disposed towards a conference either of jurists or of Foreign Ministers, Sir Austen Chamberlain at once withdrew his suggestion."

The substance of the foregoing was communicated to me orally by Chilton on Wednesday. In reply I thanked him warmly for Chamberlain's message and said that I was very much opposed to a Commission of Jurists; that this was largely a great political issue between the Governments raised above the mere legal opinion of jurists who, if they got together, would spend their time trying to find out some reason why it could not be done, but that each government would and undoubtedly had consulted its legal advisers. I added that I had expressed my opinion in my speech and believed that a preliminary meeting of this kind, which could decide nothing, would be an obstacle rather than a help.

As to the meeting of ministers, I told him I had avoided stating that I would not attend; that I did not care to assume the responsibility of refusing to attend if the time should come when such a meeting was absolutely necessary. I said I thought that the governments could get together on the form of a treaty as it was a simple proposition and, if so, it would be much better than having a general conference. As you know I have previously said to the Ambassador that if the time came when it was deemed advisable to impress the world with the importance of this matter, I would not oppose meeting the foreign ministers for the purpose of signing, but as you also know I am vigorously opposed to any preliminary conference of Foreign Ministers and Chilton so understands. Wire me fully what you learn from Fleuriau and the Polish Minister.

KELLOGG

711.60 c 12Anti-War/1 : Telegram

The Minister in Poland (Stetson) to the Secretary of State

[Paraphrase]

WARSAW, May 14, 1928—7 p. m.

[Received 11:44 p. m.]

29. With reference to the Kellogg plan for renunciation of war which has been presented to the five great powers, I desire to submit to the Department the Polish point of view which Tarnowski, chief of League of Nations section of the Foreign Office, expressed unofficially and informally to me on Saturday.

The Government of Poland regrets that it was not equally associated with the five powers for the following reasons:

1. A proposal of a similar nature was made last year to the League of Nations by Poland;

2. By reason of her geographical and political situation Poland can contribute greatly to peace of Europe, and without her cooperation any peace plan would fail;

3. A proposal such as the one named made to Germany and not to Poland complicates the latter's position by lessening her prestige;

4. Because of Poland's alliance with France the proposal creates an annoying juridical situation.

In regard to the first point, Mr. Tarnowski contends that Poland's original proposal made last September was almost identical with the Kellogg proposal, but that before it reached the League of Nations it had been greatly modified under French and British influence. Copy of this original Polish plan has been promised me for this week, and upon receipt I shall forward it to the Department.⁶³

In regard to the fourth point, Poland contends that if the Kellogg plan is accepted by the five powers Germany could then attack Poland, and France would not be able to comply with the terms of her military alliance with Poland.

Belief held by Polish Government is that if the Kellogg plan is to accomplish the greatest possible amount of good, the United States should include in the invitation not only the Governments which were allies during the World War but also the Governments signatories of the Locarno pact; in other words, Czechoslovakia and Poland should be included in the invitation.

The foregoing statements were confirmed to a large extent this morning by the Minister for Foreign Affairs, who added that the Government was more partial to the plan put forth by the United States than to that put forward by the French, and that it did not wish to criticize the United States for not having invited Poland to participate.

Sometime during the present week the Minister for Foreign Affairs is expected to give exposé of Polish foreign policy before Committee of Foreign Affairs in Diet at which time he will probably allude to the Kellogg proposal along the lines indicated above.

STETSON

711.60 c 12Anti-War/2 : Telegram

The Secretary of State to the Minister in Poland (Stetson)

[Paraphrase]

WASHINGTON, May 15, 1928—2 p. m.

32. Your No. 29, May 14, 7 p. m. You will please explain informally to the Minister for Foreign Affairs that I suggested that

⁶³ Forwarded with despatch No. 1754, May 31; not printed.

a treaty against war be signed in the first instance by the Governments of the United States, Great Britain, France, Germany, Italy and Japan and no others solely because I felt that to enlarge field of formal negotiations at outset would cause real difficulties to emerge and would lessen the likelihood of prompt agreement. I am not by any means ignorant of the service that has been rendered by Poland to the cause of peace, and I should be highly gratified, of course, if Poland would indicate her approval of the form of treaty which this Government has proposed.

I have already recognized that the countries signatories of the Locarno treaties occupy a special position, and this Government is, naturally, entirely willing that all the parties to the Locarno treaties should become parties to the proposed anti-war treaty either by means of signature to it in the first instance or by immediate accession to it as soon as it comes into force as provided by article III of our proposed draft.

This Government has informed the Governments of Great Britain, France, Germany, Italy, and Japan that the United States would not offer any objection when and if such a suggestion as indicated in second paragraph were made, and in the address which I delivered before the American Society of International Law on April 28 I made the same statement. I wish you so to inform the Minister for Foreign Affairs; and you will add that if Government of Poland is disposed to accept the form of treaty which the Government of the United States has proposed and will indicate this disposition to me, I shall be quite happy to cooperate in any way I may to the end that Poland may become one of the treaty's original signatories.

Repeat your No. 29 and this reply to Embassy, London, for the Ambassador's information.

KELLOGG

711.60 c 12Anti-War/3 : Telegram

The Minister in Poland (Stetson) to the Secretary of State

[Paraphrase]

WARSAW, *May 17, 1928—5 p. m.*

[Received 10:23 p. m.]

31. Department's No. 32, May 15, 2 p. m. Communicated contents of telegram to Minister for Foreign Affairs, who received it most favorably. He promised to consult with his colleagues, particularly Pilsudski,⁶⁴ and next week to give me a definite reply.

He also stated, and as not to be divulged, that the Germans wished to modify article II to include in it arbitration and conciliation.

⁶⁴ Marshal Joseph Pilsudski, Polish Prime Minister and Minister of War.

Polish Government would not consider statement more definite than that of the American draft. The Minister added that the French Ambassador had intimated that if Government of Poland accepted the American proposals, the Government of the Republic would be inclined to modify certain objections which it had raised during the negotiations in manner favorable to position of the American Government.

STETSON

711.4112.Anti-War/75 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, May 19, 1928—1 p. m.

[Received 1:05 p. m.⁶⁵]

114. Following is text of British reply, dated May 19:

"Your Excellency: Your note of the 13th April containing the text of a draft treaty for the renunciation of war, together with copies of the correspondence between the United States and French Governments on the subject of this treaty, has been receiving sympathetic consideration at the hands of His Majesty's Government in Great Britain. A note has also been received from the French Government containing certain suggestions for discussion in connection with the proposed treaty, and the German Government were good enough to send me a copy of the reply which has been made by them to the proposals of the United States Government.

2. The suggestion for the conclusion of a treaty for the renunciation of war as an instrument of national policy has evoked widespread interest in this country and His Majesty's Government will support the movement to the utmost of their power.

3. After making a careful study of the text contained in Your Excellency's note and of the amended text suggested in the French note, His Majesty's Government feel convinced that there is no serious divergence between the effect of these two drafts. This impression is confirmed by a study of the text of the speech by the Secretary of State of the United States to which Your Excellency drew my attention and which he delivered before the American Society of International Law on the 28th April. The aim of the United States Government, as I understand it, is to embody in a treaty a broad statement of principle, to proclaim without restriction or qualification that war shall not be used as an instrument of policy. With this aim His Majesty's Government are wholly in accord. The French proposals, equally imbued with the same purpose, have merely added an indication of certain exceptional circumstances in which the violation of that principle by one party may oblige the others to take action seeming at first sight to be inconsistent with the terms of the proposed pact. His Majesty's Govern-

⁶⁵ Telegram in two sections.

ment appreciate the scruples which have prompted these suggestions by the French Government. The exact fulfillment of treaty engagements is a matter which affects the national honor; precision as to the scope of such engagements is, therefore, of importance. Each of the suggestions made by the French Government has been carefully considered from this point of view.

4. After studying the wording of article 1 of the United States draft, His Majesty's Government do not think that its terms exclude action which a state may be forced to take in self-defense. Mr. Kellogg has made it clear in the speech to which I have referred above that he regards the right of self-defense as inalienable, and His Majesty's Government are disposed to think that on this question no addition to the text is necessary.

5. As regards the text of article 2, no appreciable difference is found between the American and the French proposals. His Majesty's Government are therefore content to accept the former if, as they understand to be the case, a dispute 'among the high contracting parties' is a phrase wide enough to cover a dispute between any two of them.

6. The French note suggests the addition of an article providing that violation of the treaty by one of the parties should release the remainder from their obligations under the treaty towards that party. His Majesty's Government are not satisfied that, if the treaty stood alone, the addition of some such provision would not be necessary. Mr. Kellogg's speech, however, shows that he put forward for acceptance the text of the proposed treaty upon the understanding that violation of the undertaking by one party would free the remaining parties from the obligation to observe its terms in respect of the treaty-breaking state.

7. If it is agreed that this is the principle which will apply in the case of this particular treaty, His Majesty's Government are satisfied and will not ask for the insertion of any amendment. Means can no doubt be found without difficulty of placing this understanding on record in some appropriate manner so that it may have equal value with the terms of the treaty itself.

8. The point is one of importance because of its bearing on the treaty engagements by which His Majesty's Government are already bound. The preservation of peace has been the chief concern of His Majesty's Government and the prime object of all their endeavors. It is the reason why they have given ungrudging support to the League of Nations and why they have undertaken the burden of the guarantee embodied in the Locarno treaty. The sole object of all these engagements is the elimination of war as an instrument of national policy, just as it is the purpose of the peace pact now proposed. It is because the object of both is the same that there is no real antagonism between the treaty engagements which His Majesty's Government have already accepted and the pact which is now proposed. The machinery of the Covenant and of the Treaty of Locarno, however, go somewhat further than a renunciation of war as a policy, in that they provide certain sanctions for a breach of their obligations. A clash might thus conceivably arise between the existing treaties and the proposed pact unless it is understood that the obligations of the new engagement will cease to operate in respect of

a party which breaks its pledges and adopts hostile measures against one of its co-contractants.

9. For the Government of this country respect for the obligations arising out of the Covenant of the League of Nations and out of the Locarno treaties is fundamental. Our position in this regard is identical with that of the German Government as indicated in their note of the 27th April. His Majesty's Government could not agree to any new treaty which would weaken or undermine these engagements on which the peace of Europe rests. Indeed, public interest in this country in the scrupulous fulfillment of these engagements is so great that His Majesty's Government would for their part prefer to see some such provision as article 4 of the French draft embodied in the text of the treaty. To this we understand there will be no objection. Mr. Kellogg has made it clear in the speech to which I have drawn attention that he had no intention by the terms of the new treaty of preventing the parties to the Covenant of the League or to the Locarno treaty from fulfilling their obligations.

10. The language of article 1, as to the renunciation of war as an instrument of national policy, renders it desirable that I should remind Your Excellency that there are certain regions of the world the welfare and integrity of which constitute the special and vital interest for our peace and safety. His Majesty's Government have been at pains to make it clear in the past that interference with these regions cannot be suffered. Their protection against attack is to the British Empire a measure of self-defense. It must be clearly understood that His Majesty's Government in Great Britain accept the new treaty upon the distinct understanding that it does not prejudice their freedom of action in this respect. The Government of the United States have comparable interests any disregard of which by a foreign power they have declared that they would regard as an unfriendly act. His Majesty's Government believe, therefore, that in defining their position they are expressing the intention and meaning of the United States Government.

11. As regards the measure of participation in the new treaty before it would come into force, His Majesty's Government agree that it is not necessary to wait until all the nations of the world have signified their willingness to become parties. On the other hand, it would be embarrassing if certain states in Europe with whom the proposed participants are already in close treaty relations were not included among the parties. His Majesty's Government see no reason, however, to doubt that these states will gladly accept its terms. Universality would, in any case, be difficult of attainment, and might even be inconvenient, for there are some states whose governments have not yet been universally recognized, and some which are scarcely in a position to ensure the maintenance of good order and security within their territories. The conditions for the inclusion of such states among the parties to the new treaty is a question to which further attention may perhaps be devoted with advantage. It is, however, a minor question as compared with the attainment of the more important purpose in view.

12. After this examination of the terms of the proposed treaty and of the points to which it gives rise, Your Excellency will realize that His Majesty's Government find nothing in their existing commitments

which prevents their hearty cooperation in this new movement for strengthening the foundations of peace. They will gladly cooperate in the conclusion of such a pact as is proposed and are ready to engage with the interested Governments in the negotiations which are necessary for the purpose.

13. Your Excellency will observe that the detailed arguments in the foregoing paragraphs are expressed on behalf of His Majesty's Government in Great Britain. It will, however, be appreciated that the proposed treaty, from its very nature, is not one which concerns His Majesty's Government in Great Britain alone, but is one in which they could not undertake to participate otherwise than jointly and simultaneously with His Majesty's Governments in the Dominions and the Government of India. They have, therefore, been in communication with those Governments, and I am happy to be able to inform Your Excellency that, as a result of the communications which have passed, it has been ascertained that they are all in cordial agreement with the general principle of the proposed treaty. I feel confident, therefore, that, on receipt of an invitation to participate in the conclusion of such a treaty, they, no less than His Majesty's Government in Great Britain, will be prepared to accept the invitation.

I have the honor to be, with the highest consideration, Your Excellency's obedient servant, Austen Chamberlain."

HUGHTON

711.4112Anti-War/87 : Telegram

The Secretary of State to the Ambassador in Great Britain (Houghton)

WASHINGTON, May 21, 1928—4 p. m.

130. Your 115, May 19, 3 p. m.⁶⁶ On Friday afternoon when the British Ambassador handed me a copy of Chamberlain's note of May 19, he dictated the following extract from separate instructions which Chamberlain had sent him regarding the participation in the treaty by the Dominions and India :

"As regards the procedure respecting the Dominion Governments and the Government of India, His Majesty's Government wishes to stress the obvious necessity for the whole empire signing the treaty simultaneously. His Majesty's Government in Great Britain feels confident that the United States Government will approve participation of the Dominions and India and will gladly extend to them the necessary invitations. They would much prefer separate invitations being sent to each of the Dominion Governments and there would be no objection to the invitations to Canada and the Irish Free State being extended through the United States Legations in Ottawa and Dublin and the invitations to His Majesty's Governments in Great Britain, Australia, New Zealand, South Africa and the Government of India through the United States Ambassador in London."

I am today telegraphing to our Legations at Ottawa and Dublin the text of a note to be dated and delivered tomorrow inviting participation

⁶⁶ Not printed.

in the treaty by Canada and the Irish Free State, respectively.⁶⁷ In view of the procedure suggested by Chamberlain through Howard, I desire to have a corresponding invitation extended by you tomorrow to His Majesty's Governments in Australia, New Zealand and South Africa and to the Government of India. According to information furnished by the British Embassy, your note of invitation should be addressed to Chamberlain. Unless a different procedure is requisite, particularly with reference to whether there should be four separate notes, in which case make the necessary changes, you should therefore date and deliver tomorrow to Chamberlain the following note which *mutatis mutandis* is identical with those to be delivered in Ottawa and Dublin:

"In the note which you addressed to me on May 19, 1928, you were good enough to inform my Government that His Majesty's Government in Great Britain had been in communication with His Majesty's Governments in the Dominions and with the Government of India, and had ascertained that they were all in cordial agreement with the general principle of the multilateral treaty for the renunciation of war which the Government of the United States proposed on April 13, 1928. You added that you felt confident, therefore, that His Majesty's Governments in the Dominions and the Government of India were prepared to accept an invitation to participate in the conclusion of such a treaty as that proposed by the Government of the United States.

I have been instructed to state to Your Excellency that my Government has received this information with the keenest satisfaction. My Government has hoped from the outset of the present negotiations that the Governments of the Dominions and the Government of India would feel disposed to become parties to the suggested anti-war treaty. It is, moreover, most gratifying to the Government of the United States to learn that His Majesty's Governments in the Dominions and the Government of India are so favorably inclined towards the treaty for the renunciation of war which my Government proposed on April 13, 1928, as to wish to participate therein individually and as original signatories, and my Government, for its part, is most happy to accede to the suggestion contained in your note to me of May 19, 1928.

Accordingly I have been instructed to extend through you to His Majesty's Governments in Australia, New Zealand and South Africa and to the Government of India a cordial invitation in the name of the Government of the United States to become original parties to the treaty for the renunciation of war which is now under consideration. Pursuant to my instructions, I also have the honor to inform you that the Government of the United States will address through you to His Majesty's Governments in Australia, New Zealand and South Africa and to the Government of India at the same time and in the same manner as to the other Governments whose participation in the proposed treaty in the first instance is contemplated, any further communications which it may make on the subject of the treaty after it has been acquainted with the views of all the Governments to which its note of April 13, 1928, was addressed."

⁶⁷ Telegrams No. 62 to Canada and No. 7 to the Irish Free State not printed.

Please inform the Foreign Office that the Government of the United States proposes to release the text of its invitations to the Dominions and India for publication simultaneously in the United States and abroad in Friday morning's newspapers, May 25. You should make appropriate arrangements for publication in the local press.

Please telegraph as soon as you have delivered the foregoing note.

KELLOGG

711.4112Anti-War/86 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *May 21, 1928—4 p. m.*

[Received May 21—2:35 p. m.]

127. The British reply on the Peace Pact has been relatively very pleasing to French public opinion. The terms in which Chamberlain and Cushendun⁶⁸ had voiced the approval of the British Government on our proposal had already pleased certain elements here, but the apprehension had been general that the British answer would approach an unconditional acceptance. The initial reaction here, consequently, is one of relief, and the British reply is taken as recognizing validity of France's position and as taking her reservations into consideration.

A great interest is being taken in the passage in the British reply on freedom of action in regions the welfare and integrity of which are of special interest to the British Empire; this is characterized as British "Monroe Doctrine."

HERRICK

711.5112France/323

The Secretary of State to the Ambassador in France (Herrick)

No. 2774

WASHINGTON, *May 25, 1928.*

SIR: The Department refers to your despatch No. 8494, dated April 3, 1928, in which is reported the existence of confusion with respect to the two Resolutions, approved at the Sixth International Conference of American States, relative to the condemnation of war as an instrument of national policy, and aggression. You request the Department's instructions in the premises definitely clearing up this confusion.

In reply you are informed for such informal use as may seem necessary that the confusion to which you refer, and which is described in the clipping from the *Journal des Debats* that accompanied your

⁶⁸ Lord Cushendun, Chancellor of the Duchy of Lancaster.

despatch under acknowledgment, has arisen as a result of the action of the Cuban officials in altering the text of one of those Resolutions after the Final Act of the Conference in which it was contained had been signed.

The declarations that the American Republics desire to express that they condemn war as an instrument of national policy in their mutual relations and that they have the most fervent desire to contribute in every possible manner to the development of international means for the pacific settlement of conflicts between States, were contained in the two opening paragraphs of one of the Resolutions referred to when the Final Act was signed. A copy of the Final Act as signed was obtained at the time of signature by the American Delegation, and the Resolution in question appears in this copy with the two paragraphs included. The certified copies of the Final Act as distributed by the Cuban Government, however, show that the Resolution has been altered; and upon inquiry the Department has learned that the page containing this Resolution was removed from the Final Act after it was signed and a new page inserted containing a version wherein the two paragraphs are omitted. In explanation of this substitution the Cuban Government states that the two paragraphs mentioned are stylistically inadmissible inasmuch as they properly should be regarded as a preamble and not as a part of the Resolution itself.

This Government is unwilling to agree to this substitution, which was made without its knowledge and presumably without the knowledge of any of the signatory Governments, and is at present endeavoring to have the paragraphs reinstated.

Copies of translations of the two Resolutions are enclosed herewith for your information.⁶⁹

I am [etc.]

For the Secretary of State:

ROBERT E. OLDS

711.4112Anti-War/98 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, *May 25, 1928—2 p. m.*

[Received 2:45 p. m.]

122. Last night Chamberlain dined alone with me at his suggestion; we spent a long evening together. He desired especially that I should understand his policy toward France, contrasting the difficulties which

⁶⁹ For texts of resolutions, see circular telegram of Mar. 1, 4 p. m., p. 12.

had existed between the two countries as long as Great Britain had maintained a distant attitude with the good results which had followed directly upon putting his policy of friendship into effect. Chamberlain went into this in detail and with evident sincerity. He then spoke of his recent note to you, saying that he was heartily in favor of your proposal, as were the Government and people of Great Britain. He added that he felt he could do much to bring the French to accept your point of view, considering his especial relations of friendship with France. He had informed the French that he could not possibly endorse their note and that he could not accept all their reservations. He agreed that it was necessary to find some way of tying up the interpretations which you gave in your Washington address to the treaty itself. He would accept the treaty as it stands if the matter were solely between you and him, but as so many nations were involved it was obvious that some basis of interpretation satisfactory to you must be found. He had given thought several times to the question whether an informal discussion between Olds⁷⁰ and [Henry?] ⁷¹ would not forward the matter, but of course he had not made any such suggestion to anyone. He said that he was speaking thus frankly to me because we were talking intimately and not as Foreign Secretary to Ambassador. I thanked him and said that I was certain of his good will toward the treaty and was confident that he would do all in his power to bring France into line with your proposal. I added, however, that what he said left me with the impression that in a couple of ways his note was not wholly satisfactory:

In the first place, I was uncertain that he had even now grasped your meaning precisely. I was merely your agent and had no authority to read into the treaty any more than it said, but that in my personal belief the proposal boiled down to three elements: (1) A general acceptance of the *status quo*; (2) renunciation by each signatory of right to wage private war to break that status; (3) violation of the treaty by any nation automatically released other signatories as toward the offending nation. That is to say, a nation making war for its own private purposes would become an offender against all the others. Each nation was left entirely free, of course, to take such action as was suitable to the situation in whatever manner it saw fit or to remain quiescent, but that the offending nation would necessarily occupy a position somewhat analogous to that of a lawbreaker in any community. Chamberlain seemingly found in this analysis a new point of view; he seized upon it and said that he agreed with it wholly. He thought that France would also agree when the pro-

⁷⁰ Robert E. Olds, Under Secretary of State.

⁷¹ Jules Henry, First Secretary of the French Embassy.

posal was understood, but that at present France undoubtedly was fearful that the treaty in some way would prove inimical to the League Covenant and the Locarno agreement and the existing treaties. I replied that I thought that you had cleared all this ground satisfactorily, and he said that he had thought so too, but that the French must be given sufficient time to accommodate themselves to what, after all, was a new conception of international relations. He added that the French Ambassador (Fleuriau) had told him that as your recent note had not been addressed to France there was no assurance that France would reply to it. I replied that I was not informed.

I then remarked, as my second point, that my feeling was that his reference to a British "Monroe Doctrine" was unfortunate, as it opened a veritable Pandora's box of difficulties. Were Great Britain now to set up a Monroe Doctrine would France and Italy and Japan also find expedient the development of Monroe Doctrines of their own? If they did, a serious situation must result. This comment seemed greatly to trouble Chamberlain, who expressed the hope that his statement would be followed by no such result, as he had made it only to reassure Parliament over Egypt. As for Japan, he had heard that an unconditional acceptance would be forwarded. I said that I hoped, likewise, that no untoward results would follow, but I emphasized strongly my opinion that efforts to surround the treaty with reservations seemed most unfortunate.

Chamberlain then said that certain American comments on his statement had greatly puzzled him, as he had understood that there was no objection to the fourth point of the French reply. This statement had been based, he said, upon a memorandum from Sir Esme Howard in which you were quoted to this effect. He went on to say that he perceived many objections to a reported formula in which the phrase "involved in war" was used. He pointed out that this made possible the attack of either party, the guilty with the innocent alike, by the other signatories.

His final statement, which he made with a good deal of earnestness, was that at any time he might be brought before an international court where his treaty obligations would be interpreted technically and in a purely legal way; that I must realize, therefore, that for his protection a correct phraseology was an absolute necessity. There could be nothing taken for granted.

Chamberlain will leave for Geneva tomorrow and will not return until the end of June. He plans to go away again for a vacation of six or eight weeks about September 1.

HOUGHTON

711.9412Anti-War/25 : Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

Tokyo, May 26, 1928—11 a. m.

[Received May 26—4:17 a. m.]

66. My telegram No. 65, May 22, 5 p. m.⁷² The Minister for Foreign Affairs handed to me at 10:30 this morning the following reply of the Japanese Government:

“Monsieur l’Ambassadeur: I have the honor to acknowledge the receipt of Your Excellency’s note number 336 of April 13th, last,⁷³ transmitting to me, under instructions from the Government of the United States, the preliminary draft of a proposed multilateral treaty representing in a general way a form of treaty which the Government of the United States is prepared to sign with the French, British, German, Italian and Japanese Governments and any other governments similarly disposed, with the object of securing the renunciation of war. At the same time Your Excellency enclosed a copy of the correspondence recently exchanged between the Governments of the United States and the French Republic commencing with a proposal put forward by Monsieur Briand in June, 1927; and you intimated that the Government of the United States desired to be informed whether the Japanese Government were in a position to give favorable consideration to the conclusion of such a treaty as that of which you enclosed a draft—and if not, what specific modification in the text would make it acceptable.

I beg to inform Your Excellency that the Government of Japan sympathize warmly with the high and beneficent aims of the proposal now made by the United States, which they take to imply the entire abolition of the institution of war, and that they will be glad to render their most cordial cooperation towards the attainment of that end.

The proposal of the United States is understood to contain nothing that would refuse to independent states the right of self-defense, and nothing which is incompatible with the obligations of agreements guaranteeing the public peace, such as are embodied in the Covenant of the League of Nations and the treaties of Locarno. Accordingly, the Imperial Government firmly believe that unanimous agreement on a mutually acceptable text for such a treaty as is contemplated is well capable of realization by discussion between the six powers referred to, and they would be happy to collaborate with cordial good will in the discussions with the purpose of securing what they are persuaded is the common desire of all the peoples of the world—namely, the cessation of wars and the definite establishment among the nations of an era of permanent and universal peace.

I avail myself of this occasion to renew to Your Excellency, Monsieur l’Ambassadeur the assurance of my highest consideration. Baron Giichi Tanaka, Minister.”

⁷² Not printed.

⁷³ See despatch No. 830, Apr. 16, from the Ambassador in Japan, p. 28.

I asked the Minister for Foreign Affairs whether the words "the proposal of the United States is understood" meant that it is the understanding of Japan and after comparing the original with the translation he replied, "Yes, this is the meaning of the language used in the Japanese original."

The note will be given out to the press here today at 5 p. m. Tokyo time.

MACVEAGH

711.41 d 12Anti-War/5 : Telegram

The Minister in the Irish Free State (Sterling) to the Secretary of State

DUBLIN, May 30, 1928—3 p. m.

[Received May 30—1:45 p. m.]

11. Your 7, May 21, 4 p. m.⁷⁴ The reply of the Irish Free State Government follows. They propose to release it to the press here for Friday morning's papers. Please telegraph immediately if this is agreeable.

"Excellency: I have the honor to acknowledge receipt of Your Excellency's note of 22nd May referring to the draft treaty for the renunciation of war and extending an invitation from your Government to the Government of the Irish Free State to become one of the original parties to the proposed treaty.

The Government of the Irish Free State warmly welcome the action of the United States Government in initiating this further advance towards the maintenance of general peace. They are in cordial agreement with the general principle of the draft treaty which they confidently hope will ensure the peaceful settlement of future international disputes.

Sharing the view expressed by the Secretary of State of the United States in his speech before the American Society of International Law that nothing in the draft treaty is inconsistent with the Covenant of the League of Nations, the Government of the Irish Free State accept unreservedly the invitation of the United States Government to become a party to the treaty jointly with the other states similarly invited.

The Government of the Irish Free State will be glad therefore to participate in, and to further by every possible means, the negotiations which may be necessary for the conclusion of the pact.

Accept, Excellency, the renewed assurance of my highest consideration. P. McGilligan

30th May 1928."

STERLING

⁷⁴ See telegram No. 130, May 21, 4 p. m., to the Ambassador in Great Britain, p. 69.

711.4212Anti-War/22

The Minister in Canada (Phillips) to the Secretary of State

No. 437

OTTAWA, *May 30, 1928.*

[Received June 1.]

SIR: With reference to my telegram of today's date, No. 115 [113], 5 p. m.⁷⁵ informing the Department that I am today in receipt of a reply from His Majesty's Government in Canada to the invitation to become one of the original parties to the treaty for the renunciation of war, I have the honor to enclose herewith copies in duplicate of the note in question.

Speaking for the whole Canadian people, the Government of Canada welcomes the outcome of the discussion initiated almost a year ago between the Governments of France and of the United States. It is pleased to find that in this attitude it is in entire accord with all His Majesty's other governments. The proposals of the United States Government, by their directness and simplicity, afford to the peoples of the world a new and notable opportunity of ensuring lasting peace.

I have [etc.]

WILLIAM PHILLIPS

[Enclosure]

The Canadian Secretary of State for External Affairs (Mackenzie King) to the American Minister (Phillips)

OTTAWA, *30 May, 1928.*

SIR: I have the honour to acknowledge your note of May 22nd, extending to His Majesty's Government in Canada, in the name of the Government of the United States, an invitation to become one of the original parties to the treaty for the renunciation of war now under consideration.

The Government of Canada is certain that it speaks for the whole Canadian people in welcoming the outcome, in the proposed multi-lateral pact, of the discussion initiated almost a year ago between the Governments of France and of the United States. It is pleased to find that in this attitude it is in accord with all His Majesty's other governments. The proposals of the United States Government, by their directness and simplicity, afford to the peoples of the world a new and notable opportunity of ensuring lasting peace.

The Dominion of Canada, fortunate in its ties of kinship and allegiance as well as in its historic and neighbourly friendships, and with half a continent as its heritage, is less exposed to the danger of attack or the temptation to aggression than many other lands. Yet the Great War, with its burdens of suffering and of loss, brought home

⁷⁵ Not printed.

the danger which all countries share, and led Canada to turn with hope to the efforts to build up effective barriers against war which took shape in the League of Nations; it will welcome the present proposals as a manifestation of the same striving for peace.

The question whether the obligations of the Covenant of the League would conflict in any way with the obligations of the proposed pact has been given careful consideration. His Majesty's Government in Canada regards the League, with all its limitations, as an indispensable and continuing agency of international understanding, and would not desire to enter upon any course which would prejudice its effectiveness. It is, however, convinced that there is no conflict either in the letter or in the spirit between the Covenant and the multilateral pact, or between the obligations assumed under each.

The pre-eminent value of the League lies in its positive and preventive action. In bringing together periodically the representatives of fifty states, it builds up barriers against war by developing a spirit of conciliation, an acceptance of publicity in international affairs, a habit of co-operation in common ends, and a permanently available machinery for the adjustment of differences. It is true that the Covenant also contemplates the application of sanctions in the event of a member state going to war, if in so doing it has broken the pledges of the Covenant to seek a peaceful solution of disputes. Canada has always opposed any interpretation of the Covenant which would involve the application of these sanctions automatically or by the decision of other states. It was on the initiative of Canada that the Fourth Assembly, with a single negative vote, accepted the interpretative resolution to which the Secretary of State of the United States recently referred, indicating that it is for the constitutional authorities of each state to determine in what degree it is bound to assure the execution of the obligations of this Article by employment of its military forces. The question of sanctions has received further consideration by later Assemblies. It is plain that the full realization of the ideal of joint economic or military pressure upon an outlaw power, upon which some of the founders of the League set great store, will require either an approach to the universality of the League contemplated when the Covenant was being drawn, or an adjustment of the old rules of neutrality to meet the new conditions of co-operative defence.

In any event, if, as would seem to be the case, the proposed multilateral treaty does not impose any obligation upon a signatory in relation to a state which has not signed the treaty or has broken it, any decision taken to apply sanctions against a member of the League which has made war in violation of its Covenant pledges would not appear to conflict with the obligations of the treaty.

His Majesty's Government in Canada will have pleasure in co-operating in any future negotiations with a view to becoming a signatory to a treaty such as is proposed by the Government of the United States in the invitation which it has extended, and to recommending its acceptance to the Canadian Parliament.

Accept [etc.]

W. L. MACKENZIE KING

711.4112Anti-War/144

The British Ambassador (Howard) to the Secretary of State

WASHINGTON, 3 June, 1928.

MY DEAR MR. SECRETARY: DURING our conversation of yesterday you asked me to let you have privately a short statement of the objections of His Majesty's Government to a provision being incorporated in the Multilateral Treaty renouncing War by which provision any contracting Parties should be liberated from their obligations towards one of their number that might become "involved in war".

His Majesty's Government inform me that they would not consider this formula acceptable because it is too wide.

It does not seem logical that the obligations of the other Parties towards one of them should be terminated unless that one has broken the Treaty and a State may well become "involved in war" without having broken the Treaty.

His Majesty's Government feel that if the suggested provision were adopted the Treaty might easily be destroyed, for instance in the case of a Contractant being attacked by a non-Signatory State. It would not greatly advance the cause of peace or disarmament if the Contracting Powers are to be informed that in case of attack by one of their co-contractants they would also be liable to attack by the others. This would appear however to be the logical sequence of the adoption of the provision relating to signatories who become "involved in war".

I remain [etc.]

ESME HOWARD

711.5112France/329 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, June 6, 1928—3 p. m.

[Received June 6—2 p. m.]

147. I saw Briand this morning when he unexpectedly returned from the country for two days. The substance of his remarks on the peace treaty negotiations is as follows:

The negotiations have reached a point where it is difficult to see how they can fail. When the idea of a bilateral treaty (France and the United States) was expanded into a multilateral form of treaty, France felt it imperative that reservations and explanations covering both her general and special situation be formulated. These have been taken into account by the other powers and have been shown to have been justified by their replies. Your speech of April 28,⁷⁶ moreover, gave all the desired "appeasement" not only to France but also to those other countries which, although they were not invited to be original signatories to the proposed treaty, are deeply concerned in outcome of the negotiations and share France's point of view with regard thereto. It should be a comparatively easy matter, seemingly, to cast this general harmony of views into concrete form either by way of a protocol accompanying the treaty, or through a more matured preamble or by some other method.

Not only did the Foreign Minister speak words of optimism but they appeared genuinely to reflect his state of mind. When I saw him he showed few signs of his recent severe illness.

Copies of the foregoing have been mailed to Embassies in Berlin, London, Rome, and Brussels.

HERRICK

711.4112Anti-War/121

The Secretary of State to the Chargé in Great Britain (Atherton)

No. 1452

WASHINGTON, June 9, 1928.

SIR: The British Ambassador called at the Department on May 24, 1928 and asked if I had anything to say to him about the multilateral treaty before he departed for London, and I told him that I did not at that time but that I would try to talk with him about it prior to his departure. On May 29 I had a long interview with him on the subject.

Sir Esme said in substance that it seemed to him that the proposed treaty was not exactly a treaty so much as a declaration of principle by the various countries. I said that, of course, this appears to be so from the statements contained in the first article but that, so far as the United States is concerned, it is a treaty which must be submitted to the Senate. The Ambassador said that, since I had stated my understanding as to the meaning of the treaty, he did not see any reason why the other countries could not state their understanding of its meaning which would be made a part of the treaty. I replied that the trouble about that was if each country began tacking on to this treaty

⁷⁶ Before the American Society of International Law. See telegram No. 104, Apr. 30, 1 p. m., to the Ambassador in Great Britain, p. 41.

understandings which would be in the form of reservations or provisos or stipulations as to what it means, each country might have a different construction and different reservations and provisos and that in the end there might be so many that the treaty would be a joke. I said that I was not prepared to do it and that I could not agree to any such proceeding; that if my construction of the treaty was correct, the other countries could say that that was their understanding outside of the treaty entirely.

Sir Esme then said that he had received a letter from Sir Austen Chamberlain in which Sir Austen said that he was not sure that we on this side fully understood his attitude. Sir Austen stated that he was willing to sign the treaty in the form I had presented; that, however, what Great Britain wanted was to get France into the treaty as they feared that if France did not come in, it would probably prevent any treaty being made. I replied that I understood this but that I had not yet had any suggestions from France other than their draft treaty with all their reservations and the provisions about war as an instrument of individual, spontaneous and independent policy. That draft, I said to him, could not be understood to mean much of anything. I said that the entire European press was in favor of the anti-war treaty idea, except the press in France, but that even in France there was some support of it. I added that Mr. Herrick had said to me that he did not believe that all the press reports in France represented the opinion of the Government. Sir Esme said that he was surprised that the French press was so hostile and I said that I was too. I gave the Ambassador clearly to understand that I did not propose to enter into a treaty with so many reservations as to destroy its efficacy.

The Ambassador then said that Sir Austen would like to have the Foreign Ministers meet in Washington to sign the treaty. I said that I should be delighted to have them do so but that I did not know whether they would care to come here; that so far as signing the treaty was concerned, as I had said before, I was willing to sign it anywhere the Foreign Ministers would meet and make a sort of ceremony of signing the treaty. In connection with this, Sir Esme wanted to know if we would invite all the world, should it be decided to sign the treaty at Washington. I replied in the negative, pointing out that there would be no use of inviting the States which have not been asked to participate in the treaty to come to the United States or to any other place as we would never accomplish anything that way. I said that only those which had accepted would sign it in the first instance and that undoubtedly they might want to meet and sign it together. That was a matter, I said, which I would consider but that I could not consider inviting all the world to come here

and enter into a treaty which had not even been presented to many of the countries.

Sir Esme said that he would like, if possible, for me to give him some more specific message to Sir Austen as to what we would do. I replied that, while of course we will sign the present form of treaty, I was not prepared to say yet whether any acceptable modifications can be made, particularly since I have no assurance that any modifications would be acceptable to France. He talked quite awhile on this subject and emphasized the fact that Sir Austen was willing to sign the treaty in its present form.

The Ambassador then said that the *New York World* had made a suggestion in which he thought there was considerable merit. Suppose, he said, some country should wish to lease a naval station near the United States and Egypt should wish to lease Alexandria to Italy. I replied that if we were going to undertake to meet every possible contingency which might arise in the world, we might as well abandon the treaty; that so far as the United States is concerned, we have no fear that any country is going to lease a naval station near the United States; that if it did, we would have the right to protect ourselves on the ground of self-defense. I added that Great Britain has the same right to protect whatever Dominions or interests it has which are national in their character just the same as it would have the right to protect the British Isles. He said that he thought that was so. I said that so far as Egypt is concerned, he knew that it was as unlikely that Egypt would grant its territory to any foreign country as it was that any of the South American countries would grant their territory and, on the other hand, no country could take any South American or Central American territory without going to war since no country in this hemisphere would grant it; that time, I pointed out, has passed. I said that the chance is so remote that it is not worth while trying specifically to guard against it in a treaty because if we should, Japan would want to protect its Manchurian, Korean and Chinese interests as everyone knows and France would want to do the same, and we did not know where it would end. I added that it would certainly destroy the efficacy of any treaty. I told the Ambassador that he would understand that the position of the *New York World* is dictated largely by politics. I said that so far as the United States is concerned, it is willing to take its chances about other countries leasing naval stations near the Panama Canal or near the United States. I certainly gave him to understand that I was not going to enter into any treaty covered over with all sorts of reservations and understandings and exchanges of notes that would be made a part of the treaty.

I then brought up a question which the Ambassador had raised in one of our discussions recently in connection with the treaty as to whether the other countries could come to Belgium's rescue if Germany should make war on Belgium. I said that if the parties are released as to the treaty-breaking state, as they are, I did not see why Belgium could not be protected. I said that, of course, a clause could be put into the treaty to the effect that if any of the participating nations became involved in war, the others would be automatically released, but that I understood that Great Britain would not want this as it would be putting the innocent and the guilty together. He said yes or something like that.

I told Sir Esme that I would see him before he went abroad and if I had anything concrete that I could give him I would do so, but that I understood that Sir Austen would be out of the country. Sir Esme was very much surprised and I read him that part of Mr. Houghton's telegram which states that Sir Austen was leaving on the 26th of May for Geneva and would be absent until the last part of June, and that he planned to leave on his vacation the first week in September. The Ambassador was very much surprised and said that he did not know of any business which Sir Austen had in Geneva now.

I am [etc.]

FRANK B. KELLOGG

711.60 c 12Anti-War/27

The Minister in Poland (Stetson) to the Secretary of State

No. 1776

WARSAW, June 11, 1928.

[Received July 3.]

SIR: In confirmation of my telegraphic Despatch No. 36 of May 30, 8 P. M.,⁷⁷ relative to Secretary Kellogg's pact for the renunciation of war, I now have the honor to transmit herewith the original text, in French, of the *Aide Memoire* handed me by Count Joseph Potocki on behalf of Foreign Minister Zaleski on May 30.

A translation of the above-mentioned *Aide Memoire* identical to that submitted in my telegraphic despatch No. 36 of May 30, 8 P. M., and modification thereto, No. 38 of June 5, 10 P. M.,⁷⁷ except for the first two paragraphs, which I did not deem it necessary to include, is likewise enclosed.

I regret that the Department was misled by my No. 36 of May 30, 8 P. M., as to the exact nature of the text transmitted.

I have [etc.]

JOHN B. STETSON, JR.

⁷⁷ Not printed.

[Enclosure—Translation]

The Polish Minister for Foreign Affairs (Zaleski) to the American Minister (Stetson)

The initiative undertaken by the Government of the United States, having for its object the assuring of the maintenance of pacific relations between States through the condemnation of war and its renunciation as an instrument of national policy, has been received by the Polish Government with the keenest sympathy.

This initiative fully corresponds to the efforts that the Polish Government has not ceased to follow in its foreign policy, a policy which tends to strengthen the development of the general security.

It is in this spirit that the Polish Government is ready to accept the text of the anti-war pact proposed by the United States with the interpretation given by Mr. Kellogg in his speech of April 28 last, to wit:

that the pact prejudices in no way the obligations under the covenant of the League of Nations nor the rights and obligations under which the contracting parties are bound by international agreements entered into prior to this pact;

that all signatories of this pact shall preserve full rights to freedom of action as regards any powers which might break the terms of this pact;

that such an interpretation given in an appropriate text would be in accord with the obligations assumed by Poland under her international agreements;

that under these circumstances the Polish Government hopes that the Secretary of State of the United States will invite Poland to become one of the original signers of the pact;

however, it is understood that while accepting the pact as proposed by Mr. Kellogg with the above-mentioned interpretations given in his speech of April 28, Poland could not accept changes in the pact without further previous discussions. Poland feels for that reason her cooperation during the negotiations preceding the conclusion of the pact should not fail to be recognized.

711.9412Anti-War/30

Memorandum by the Under Secretary of State (Olds) of a Conversation With the Japanese Chargé (Sawada), June 12, 1928

Mr. Sawada made an appointment at his own suggestion yesterday. He opened by saying that after his conversation with the Secretary last Friday he had talked again with Mr. Castle,⁷⁸ who

⁷⁸ William R. Castle, Jr., Assistant Secretary of State.

had told him that if Japan desired to suggest any modifications in the text of the proposed multilateral treaty, we should be notified of such modifications as soon as possible. He had accordingly wired his Government and had a reply, the substance of which he wished to state. For the present there were two modifications which his Government would like to put forward, it being understood that further suggestions might be made later on after the whole matter had been considered by the Cabinet in Japan.

1. The word "office" appearing in the opening paragraph of the Preamble does not seem to be an appropriate term to designate the Emperor who, under the Japanese Constitution, has the full authority to make treaties. Office may mean an administrative organ or bureau. I said this did not seem to me a very serious objection. If there was any ambiguity, I had no doubt it could be straightened out by a slight change of wording, or by substituting some other word. At any rate we would take the suggestion into consideration. Mr. Sawada went on to express his own idea of what might be done. He said that the whole phrase, including the word office, might be eliminated so that this part of the Preamble should read "deeply sensible that it is our solemn duty, etc".

2. They would like to strike out the words "in the case [*names*] of their respective peoples" where they appear in Article I of the treaty. Here again he said the objection was on constitutional grounds. In Japan, the entire power is in the Emperor and not in the people. I said this seemed to be rather a technical point. The phrase had no constitutional or legal meaning for us and I did not see how any such signification could really be attributed to it. He replied that the Privy Council of Japan, which had been considering the treaty, comprised a good many lawyers, and that they were probably viewing the situation in a technical light. I told him that in our consideration of this treaty we would not be disposed to listen very much to jurists. This was not that kind of treaty. On the whole, I thought we should like to keep the phrase in question, and expressed the hope that on reflection Japan would agree with us that it was good material. However, I said we would also take into consideration this second suggestion.

The Chargé again reserved the right to make further suggestions in case the Cabinet of his Government desired to make them. He thought it improbable that any further suggestions would be made.

Mr. Sawada concluded by referring to the arbitration and conciliation treaties.⁷⁹ He said that his Government was inclined to suspend action on them until some conclusion was reached on the multilateral treaty. I expressed some surprise at this, and said that we

⁷⁹ See vol. III, pp. 135 ff.

had not thought there was any such connection between the two operations as to make one at all contingent upon the other. We were quite ready to go ahead with the arbitration and conciliation treaties and were doing so with all other Governments. We saw no reason why this should not be done. He said he would be glad to convey that view to his Government. He agreed that it would be desirable to complete the arbitration treaty before next August when the existing treaty expires. He wanted to know if I thought the multilateral treaty would be signed soon. I said I could not make any forecast on that, but that we were hopeful of an early termination of the negotiations.

R[OBERT] E. O[LDS]

711.4112Anti-War/146

The British Embassy to the Department of State

AIDE-MÉMOIRE

The French Ambassador in London has informed Sir Austen Chamberlain of the conversations which the French Ambassador in Washington had recently had with the United States Secretary of State in regard to the French reservations to the treaty for the renunciation of war. These reservations were:—

1. Maintenance of existing treaties.
2. Freedom of action for all signatory powers against a power guilty of breaking the treaty.

It appears that the French Government would have preferred that these two reservations should be embodied in the treaty itself but that the Secretary of State had objected and had assured M. Claudel that they would be covered by the wording of the preamble.

If it were impossible to include the reservations in the body of the treaty the French Government would prefer that they should be contained in a protocol of equal value with the treaty.

Mr. Kellogg had replied that if this were done it might well happen that the Senate would accept the treaty but reject the protocol and this would cause an exceedingly embarrassing position.

The French Ambassador stated to Sir Austen Chamberlain that the French Government now fully realised this and had instructed M. Claudel to allow these reservations to be covered by the wording of the preamble, but that he should ask for the following words to be added to Article 2 for the sake of greater clarity: "in conformity with the principles enunciated in the preamble."

M. de Fleuriau had asked that His Majesty's Representative in Washington might be instructed to support this proposal. Mr. Chil-

ton was instructed to inform the Secretary of State verbally that as His Majesty's Government understand the preamble is to be re-drafted so as to take account of the views expressed by the different powers. It would be a help if some phrase were added to the treaty itself making it clear that its provisions are based on the principles set forth in the body of the instrument.

His Majesty's Government, however, do not venture at this juncture to suggest any particular wording for this proposed addition to the text.

WASHINGTON, 18 June, 1928.

711.4112Anti-War/133

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 2853

LONDON, June 19, 1928.

[Received July 2.]

SIR: With reference to the Department's telegraphic Instruction No. 130 dated May 21, 4 p. m., which requested the Embassy to extend through the Secretary of State for Foreign Affairs, to His Majesty's Governments in Australia, New Zealand and South Africa, and to the Government of India, a cordial invitation in the name of the Government of the United States to become original parties to the treaty for the renunciation of war, which is now under consideration, I have the honor to forward herewith copies of the several replies, which were transmitted to the Department in the Embassy's telegrams, No. 128, dated May 30, 5 p. m., No. 132, dated June 2, 1 p. m., No. 140, dated June 11, 6 p. m., and No. 144, dated June 15, 12 noon.⁸⁰

I have [etc.]

RAY ATHERTON

[Enclosure 1]

The British Secretary of State for Foreign Affairs (Chamberlain), on Behalf of the Government of New Zealand, to the American Chargé (Atherton)

No. A 3570/1/45

LONDON, 30 May, 1928.

SIR: In the note which Mr. Houghton was so good as to address to me on May 22nd he extended on behalf of the Government of the United States an invitation to His Majesty's Governments in the Commonwealth of Australia, New Zealand and in the Union of South Africa, as well as to the Government of India, to participate individually and as original signatories in the treaty for the renunciation of war which is now under consideration.

⁸⁰ Telegrams not printed.

2. I now have the honor to inform you that His Majesty's Government in New Zealand have received with warm appreciation the invitation addressed to New Zealand to become an original party to the treaty proposed by the Government of the United States for the renunciation of war. His Majesty's Government in New Zealand welcome the opportunity, in cooperation with His Majesty's Governments in other parts of the British Empire, of associating themselves with the Government of the United States in this movement to add greater security to the peace of the world and they will be happy to share in any negotiations leading to the conclusion of the proposed treaty.

I have [etc.]

(For the Secretary of State)

R. L. CRAIGIE

、 [Enclosure 2]

*The British Secretary of State for Foreign Affairs (Chamberlain),
on Behalf of the Commonwealth of Australia, to the American
Chargé (Atherton)*

No. A 3734/1/45

LONDON, 2 June, 1928.

SIR: In the note which Mr. Houghton was so good as to address to me on May 22nd last, he extended on behalf of the Government of the United States an invitation to His Majesty's Government in the Commonwealth of Australia to participate individually and as an original signatory in the treaty for the renunciation of war which is now under consideration.

2. I now have the honour to inform you that His Majesty's Government in the Commonwealth of Australia have received with appreciation the invitation to participate as an original party in the treaty for the renunciation of war which has been proposed by the Government of the United States of America. His Majesty's Government in the Commonwealth of Australia have carefully and sympathetically examined the draft treaty submitted to them together with the correspondence that has so far been exchanged between the interested governments. They believe that a treaty such as that proposed would be a further material safeguard to the peace of the world and they will be happy to co-operate to the fullest extent in its successful conclusion.

I have [etc.]

(For the Secretary of State)

R. L. CRAIGIE

[Enclosure 3]

*The British Secretary of State for Foreign Affairs (Chamberlain),
on Behalf of the Government of India, to the American Chargé
(Atherton)*

No. A 3797/1/45

LONDON, 11 June, 1928.

SIR: In the note which Mr. Houghton was so good as to address to me on the 22nd ultimo, he extended, on behalf of the Government of the United States, an invitation to the Government of India to participate individually and as an original signatory in the treaty for the renunciation of war which is now under consideration.

2. I now have the honour to inform you that the Government of India have requested that an expression of their warm thanks may be conveyed to the United States Government for this invitation which they are happy to accept. I have the honour to add that the Government of India desire to associate themselves with the note which I had the honour to address to Mr. Houghton on the 19th ultimo.

I have [etc.]

(For the Secretary of State)

R. L. CRAIGIE

[Enclosure 4]

*The British Secretary of State for Foreign Affairs (Chamberlain),
on Behalf of the Union of South Africa, to the American Chargé
(Atherton)*

No. A 4087/1/45

LONDON, June 15, 1928.

SIR: With reference to the note which Mr. Houghton was so good as to address to me on the 22nd May conveying an invitation to His Majesty's Government in the Union of South Africa to become an original party to the proposed treaty for the renunciation of war, I have the honour to inform you that the following message has been received by telegraph from General Hertzog, Minister of External Affairs of the Union of South Africa, for communication to you:—

“Through the good offices of His Majesty's Government in the United Kingdom the contents of the note addressed by Your Excellency to His Excellency the British Secretary of State for Foreign Affairs on the 22nd May were duly conveyed to me. On behalf of His Majesty's Government in the Union of South Africa I beg to state that the cordial invitation of the Government of the United States extended to His Majesty's Government in the Union of South Africa to participate individually and as an original

signatory in the treaty for the renunciation of war which the United States Government proposed to various governments on the 13th April last, is highly appreciated and that His Majesty's Government in the Union of South Africa will gladly take part therein, as invited, together with the other Governments whose participation in the proposed treaty was invited in the first instance.

"In expressing their willingness to be a party to the proposed treaty His Majesty's Government in the Union of South Africa take it for granted—

"(a) that it is not intended to deprive any party to the proposed treaty of any of its natural right of legitimate self-defence;

"(b) that a violation of any one of the parties of any of the provisions of the proposed treaty will free the other parties from obligation to observe its terms in respect of the party committing such violation; and

"(c) that provision will be made for rendering it quite clear that it is not intended that the Union of South Africa, by becoming a party to the proposed treaty, would be precluded from fulfilling, as a member of the League of Nations, its obligations towards the other members thereof under the provisions of the Covenant of the League."

I have [etc.]

(For the Secretary of State)

R. L. CRAIGIE

711.0012Anti-War/21 : Telegram

The Secretary of State to the Ambassador in France (Herrick) ⁸¹

WASHINGTON, June 20, 1928—6 p. m.

179. Department's 178, June 20, 5 p. m.⁸² Repeat below quoted note and draft treaty immediately to London as Department's 156, Brussels as Department's 30, Prague as Department's 26, Berlin as Department's 68, Dublin as Department's 10, Rome as Department's 70, Warsaw as Department's 40.

Note begins:

"Excellency: It will be recalled that, pursuant to the understanding reached between the Government of France and the Government of the United States, the American Ambassadors at London, Berlin, Rome and Tokyo transmitted on April 13, 1928, to the Governments to which they were respectively accredited the text of M. Briand's original proposal of June 20, 1927, together with copies of the notes subsequently exchanged by France and the

⁸¹ See first paragraph for instructions to repeat to Great Britain (No. 156), Belgium (No. 30), Czechoslovakia (No. 26), Germany (No. 68), Irish Free State (No. 10), Italy (No. 70), and Poland (No. 40); text of note and draft treaty also telegraphed to Japan (No. 68).

In accordance with instruction of June 22, 6 p. m. (711.5112France/344), the note contained in this telegram was dated June 23, and was delivered with the text of the draft treaty to the respective Foreign Offices on that day.

⁸² Not printed.

United States on the subject of a multilateral treaty for the renunciation of war. At the same time the Government of the United States also submitted for consideration a preliminary draft of a treaty representing in a general way the form of treaty which it was prepared to sign, and inquired whether the Governments thus addressed were in a position to give favorable consideration thereto. The text of the identic notes of April 13, 1928, and a copy of the draft treaty transmitted therewith, were also brought to the attention of the Government of France by the American Ambassador at Paris.⁵⁸

It will likewise be recalled that on April 20, 1928, the Government of the French Republic circulated among the other interested Governments, including the Government of the United States, an alternative draft treaty, and that in an address which he delivered on April 28, 1928, before the American Society of International Law, the Secretary of State of the United States explained fully the construction placed by my Government upon the treaty proposed by it, referring as follows to the six major considerations emphasized by France in its alternative draft treaty and prior diplomatic correspondence with my Government:

[For the text of the paragraphs here omitted, see the six points as contained in the Department's telegram No. 118, April 23, 5 p. m., to the Ambassador in France, printed on page 34.]

The British, German, Italian and Japanese Governments have now replied to my Government's notes of April 13, 1928, and the Governments of the British Dominions and of India have likewise replied to the invitations addressed to them on May 22, 1928, by my Government pursuant to the suggestion conveyed in the note of May 19, 1928, from His Majesty's Government in Great Britain. None of these Governments has expressed any dissent from the above-quoted construction, and none has voiced the least disapproval of the principle underlying the proposal of the United States for the promotion of world peace. Neither has any of the replies received by the Government of the United States suggested any specific modification of the text of the draft treaty proposed by it on April 13, 1928, and my Government, for its part, remains convinced that no modification of the text of its proposal for a multilateral treaty for the renunciation of war is necessary to safeguard the legitimate interests of any nation. It believes that the right of self-defense is inherent in every sovereign state and implicit in every treaty. No specific reference to that inalienable attribute of sovereignty is therefore necessary or desirable. It is no less evident that resort to war in violation of the proposed treaty by one of the parties thereto would release the other parties from their obligations under the treaty towards the belligerent state. This principle is well recognized. So far as the Locarno treaties are concerned, my Government has felt from the very first that participation in the anti-war treaty by the powers which signed the Locarno agreements, either through signature in the first instance or thereafter, would meet every practical requirement of the situation, since in such event no state could resort to war in violation of the Locarno treaties without simultaneously violating the anti-war treaty, thus leaving the other parties thereto free, so

⁵⁸ See telegram No. 101, Apr. 9, 5 p. m., to the Ambassador in France, p. 21.

far as the treaty-breaking state is concerned. As Your Excellency knows, the Government of the United States has welcomed the idea that all parties to the Treaties of Locarno should be among the original signatories of the proposed treaty for the renunciation of war and provision therefor has been made in the draft treaty which I have the honor to transmit herewith. The same procedure would cover the treaties guaranteeing neutrality to which the Government of France has referred. Adherence to the proposed treaty by all parties to these other treaties would completely safeguard their rights since subsequent resort to war by any of them or by any party to the anti-war treaty would violate the latter treaty as well as the neutrality treaty, and thus leave the other parties to the anti-war treaty free, so far as the treaty-breaking state is concerned. My Government would be entirely willing, however, to agree that the parties to such neutrality treaties should be original signatories of the multilateral anti-war treaty, and it has no reason to believe that such an arrangement would meet with any objection on the part of the other Governments now concerned in the present negotiations.

While my Government is satisfied that the draft treaty proposed by it on April 13, 1928, could be properly accepted by the Powers of the world without change except for including among the original signatories the British Dominions, India, all parties to the treaties of Locarno and, it may be, all parties to the neutrality treaties mentioned by the Government of France, it has no desire to delay or complicate the present negotiations by rigidly adhering to the precise phraseology of that draft particularly since it appears that by modifying the draft in form though not in substance, the points raised by other Governments can be satisfactorily met and general agreement upon the text of the treaty to be signed be promptly reached. The Government of the United States has therefore decided to submit to the fourteen other Governments now concerned in these negotiations a revised draft of a multilateral treaty for the renunciation of war. The text of this revised draft is identical with that of the draft proposed by the United States on April 13, 1928, except that the Preamble now provides that the British Dominions, India and all parties to the Treaties of Locarno are to be included among the Powers called upon to sign the treaty in the first instance, and except that the first three paragraphs of the Preamble have been changed to read as follows:

'Deeply sensible of their solemn duty to promote the welfare of mankind;

Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory Power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this treaty;'

The revised Preamble thus gives express recognition to the principle that if a state resorts to war in violation of the treaty, the other contracting parties are released from their obligations under the treaty to that state; it also provides for participation in the treaty by all parties to the treaties of Locarno, thus making it certain that resort to war in violation of the Locarno treaties would also violate the present treaty and release not only the other signatories of the Locarno

treaties but also the other signatories to the anti-war treaty from their obligations to the treaty-breaking state. Moreover, as stated above, my Government would be willing to have included among the original signatories the parties to the neutrality treaties referred to by the Government of the French Republic, although it believes that the interests of those states would be adequately safeguarded if, instead of signing in the first instance, they should choose to adhere to the treaty.

In these circumstances I have the honor to transmit herewith for the consideration of Your Excellency's Government a draft of a multilateral treaty for the renunciation of war containing the changes outlined above. I have been instructed to state in this connection that the Government of the United States is ready to sign at once a treaty in the form herein proposed, and to express the fervent hope that the Government of (insert name of Government addressed) will be able promptly to indicate its readiness to accept, without qualification or reservation, the form of treaty now suggested by the United States. If the Governments of Australia, Belgium, Canada, Czechoslovakia, France, Germany, Great Britain, India, the Irish Free State, Italy, Japan, New Zealand, Poland, South Africa and the United States can now agree to conclude this anti-war treaty among themselves, my Government is confident that the other nations of the world will, as soon as the treaty comes into force, gladly adhere thereto, and that this simple procedure will bring mankind's age-long aspirations for universal peace nearer to practical fulfillment than ever before in the history of the world.

I have the honor to state in conclusion that the Government of the United States would be pleased to be informed at as early a date as may be convenient whether Your Excellency's Government is willing to join with the United States and other similarly disposed Governments in signing a definitive treaty for the renunciation of war in the form transmitted herewith.

Accept, Excellency, etc." Note ends.

Text of draft treaty to be transmitted with above note. Treaty begins:

"The President of the United States of America
 The President of the French Republic
 His Majesty the King of the Belgians
 The President of the Czechoslovak Republic
 His Majesty the King of Great Britain, Ireland and the British
 Dominions beyond the Seas, Emperor of India,
 The President of the German Reich
 His Majesty the King of Italy
 His Majesty the Emperor of Japan
 The President of the Republic of Poland
 Deeply sensible of their solemn duty to promote the welfare of
 mankind;

Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated.

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory Power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this treaty;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavor and by adhering to the present treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilized nations of the world in a common renunciation of war as an instrument of their national policy;

Have decided to conclude a treaty and for that purpose have appointed as their respective Plenipotentiaries:

- The President of the United States of America
-
- The President of the French Republic
-
- His Majesty the King of the Belgians
-
- The President of the Czechoslovak Republic
-
- His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India
- For Great Britain and Northern Ireland and all parts of the British Empire which are not separate members of the League of Nations
-
- For the Dominion of Canada
-
- For the Commonwealth of Australia
-
- For the Dominion of New Zealand
-
- For the Union of South Africa
-
- For the Irish Free State
-
- For India
-
- The President of the German Reich
-
- His Majesty the King of Italy
-
- His Majesty the Emperor of Japan
-
- The President of the Republic of Poland

who, having communicated to one another their full powers found in good and due form have agreed upon the following articles:

ARTICLE I

The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the

solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

ARTICLE II

The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

ARTICLE III

The present treaty shall be ratified by the High Contracting Parties named in the Preamble in accordance with their respective constitutional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at

This treaty shall, when it has come into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other Powers of the world. Every instrument evidencing the adherence of a Power shall be deposited at and the treaty shall immediately upon such deposit become effective as between the Power thus adhering and the other Powers parties hereto.

It shall be the duty of the Government of to furnish each Government named in the Preamble and every Government subsequently adhering to this treaty with a certified copy of the treaty and of every instrument of ratification or adherence. It shall also be the duty of the Government of telegraphically to notify such Governments immediately upon the deposit with it of each instrument of ratification or adherence.

In faith whereof the respective Plenipotentiaries have signed this treaty in the French and English languages both texts having equal force, and hereunto affix their seals.

Done at the day of in the year of our Lord one thousand nine hundred and twenty". Treaty ends.

KELLOGG

711.0012Anti-War/24 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, June 20, 1928—7 p. m.

157. Department's 156, June 20, 6 p. m., via Paris. When text of identic note is received you should prepare one communication for His Majesty's Government in Great Britain and in addition one or more as may be customary for His Majesty's Governments in Australia, New Zealand and South Africa and the Government of India. It is important that each Dominion Government and

India receive the individual attention to which it is entitled, and if separate notes should be addressed to each please act accordingly.

KELLOGG

711.9412Anti-War/37

Memorandum by the Chief of the Division of Western European Affairs (Marriner)

[WASHINGTON,] June 23, 1928.

The Japanese Chargé d'Affaires ad interim, Mr. Sawada, called by appointment at 12:15, and the Secretary handed him a copy of the identic note and draft multilateral treaty for the renunciation of war delivered to the various foreign offices today. The Secretary informed the Chargé d'Affaires that the change requested by the Japanese Government in the preamble with respect to the term "high offices" had been made and that phrase omitted. He read the Chargé d'Affaires the first paragraph of the new preamble

"Deeply sensible of their solemn duty to promote the welfare of mankind;"

and Mr. Sawada said that this would be satisfactory to his Government. The Secretary then said that although it was of course not of first importance to Japan, nevertheless, in accordance with the views of European Powers, the three Locarno Powers had been included in the draft treaty. He pointed out that since the treaty of Locarno contained an agreement among its signatories not to go to war, the present treaty would merely reinforce that provision and the violation of one treaty would result in the violation of the other with consequent liberty of action. With respect to the release of the parties to the treaty in case of violation by one of them, the Secretary stated that he had desired to include in the preamble an interpretative statement merely setting forth the law on that subject and he read to the Chargé d'Affaires the clause.

"Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;

"Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory Power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this treaty;"

The Chargé d'Affaires asked about the question of self-defense, and the Secretary said that it had been agreed upon and that France had agreed that as this was an inalienable attribute of sovereignty, there was no necessity for its specific mention. The Chargé d'Affaires

then inquired as to a point in the phraseology in Article 1 of the treaty, "in the names of their respective peoples", and stated that this was not in accordance with Japanese constitutional procedure, since it was only the Emperor who could conclude a treaty. The Secretary said that since this treaty was in due and regular form with the Emperor named at the beginning of the preamble as one among the parties to the conclusion of the treaty, there could be no legal question raised on this point and that as this was a part of the phraseology of the original Briand proposal, he did not feel at liberty to make any change and that he hoped the Japanese Government would see its way to signing the treaty in its present form.

The Chargé d'Affaires inquired as to whether an agreement had been reached on these points with England and France, and the Secretary said that he could not go as far as to say that, but that he had high hopes it would come about. The Secretary said that he told the French Ambassador that the Japanese desired to be informed in time of any arrangements for signature and that although no such arrangements were contemplated as yet, there could be no doubt that they would receive sufficient notice. He told the Chargé d'Affaires that the note would be confidential until its release in the press of Monday, June 25, 1928.

J. T. M[ARRINER]

711.5112France/345

Memorandum by the Under Secretary of State (Olds)

[WASHINGTON,] June 23, 1928.

The French Ambassador called at our suggestion and was received by the Secretary and the Undersecretary. The Secretary told him that he did not think it necessary for him to go over again fully the situation which had already been discussed between the Ambassador and the Undersecretary yesterday.⁸⁴ He did, however, take up the clauses in the preamble and explained to the Ambassador that they virtually provided that the *status quo* could not be changed by any signatory of this treaty by resort to war without forfeiting the benefits of this treaty so far as the violator thereof was concerned. The Secretary also stated to the Ambassador confidentially that when the time came for signing the treaty, he was prepared to suggest to the other Powers that the signing take place in Paris. The Ambassador expressed his appreciation of this statement with obvious emotion. He inquired when the Secretary thought the treaty might be signed and the Secretary said he hoped they could reach that point in August or September.

⁸⁴ Memorandum of conversation not printed.

The Secretary further stated that he had been sincerely anxious to meet all of France's views and thought he had done so. He said he had gone as far as he could go and reminded the Ambassador again that we had our Senate to consider in this matter. In response to an inquiry by the Ambassador, the Secretary said he felt confident as a result of his conversations with Members of the Foreign Relations Committee and others that the treaty in the form now submitted would be ratified here.

The Secretary explained again, as he had done in previous conversations, just how signature by all of the parties to Locarno and other treaties of guaranty would take care of the second point insisted upon by France. Going to war in violation of the other treaties would automatically violate this treaty and the fact that there were sanctions in the other treaties which might be applied in that event was an entirely extraneous circumstance so far as the anti-war treaty is concerned.

R[OBERT] E. O[LDS]

711.3212Anti-War/1 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

[Paraphrase]

RIO DE JANEIRO, June 28, 1928—3 p. m.

[Received June 28—2:35 p. m.]

27. An article has appeared in the local press inquiring the reason why Brazil has not been included in your invitation to participate as an original signatory to the proposed Treaty for the Renunciation of War, inasmuch as such countries as Czechoslovakia and Poland have been included. As the Foreign Office might be embarrassed should a similar question be asked in the Brazilian Congress or should a discussion thereon arise, would you wish to give me a statement on the matter which I might informally and unofficially furnish the Foreign Minister in the event that it seemed desirable.

MORGAN

711.3212Anti-War/3 : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

[Paraphrase]

WASHINGTON, June 29, 1928—1 p. m.

24. Your 27, June 28, 3 p. m. Reason why Brazil and other countries were not included in this Government's original invitation is as follows:

The French Government originally proposed that France and the United States enter into a treaty in the same language that I have proposed for a multilateral treaty. After giving very careful thought to the subject, I was convinced that the United States could not enter into a treaty with France that it would not be equally willing to enter into with all the other powers, and I made a counter-proposal that in the first instance the Governments of the United States, France, Great Britain, Italy, and Japan enter into a multilateral treaty which should be open to adherence to any other power in the world. The object of this restriction at the beginning to a few powers was to narrow the field of negotiation and to expedite conclusion of a treaty; if we undertook negotiations with all the world powers, result would be indefinite delay. The present fear of war, moreover, is principally in Europe, and it was deemed most important to get the leading European powers to sign the treaty and set forth this principle. Great Britain did not wish to sign for the Dominions and India and requested that they be invited as a part of the British Empire, so the proposal was extended to them. It was also afterward extended to Czechoslovakia, Belgium and Poland, as they are the only powers parties to the Locarno treaties of guarantee in addition to the powers originally invited. Question was raised by France of whether her signature to this treaty renouncing war would conflict with the obligations of the Locarno treaties and other similar guaranty treaties in Europe which France asserted required her to come to the defense of any nation a party to these treaties if it is attacked by any other party. In order to obviate question raised by France I acquiesced in the suggestion that the Locarno countries be made parties to this treaty so that there could not be any conflict between proposed treaty and the treaties of Locarno. If the latter should be broken by one of the parties it would likewise break the multilateral treaty; the other parties would be released and could go to the rescue of the party attacked.

From the start, the United States has been insisting on a formula which would include Brazil as well as other states. Never has there been any intention of restricting it to the original signatories alone. The plan has been to submit the treaty when it has been signed to every country together with an invitation to become a party to it.

I am sending you by mail complete copies of all correspondence on the treaty from the beginning down to the present. If it is finally agreed to and signed by the above-mentioned powers, an invitation will undoubtedly be sent to Brazil.

KELLOGG

711.2312Anti-War/1 : Telegram

The Secretary of State to the Ambassador in Peru (Moore)

[Paraphrase]

WASHINGTON, June 29, 1928—noon.

49. Replying to inquiry presented by American Ambassador in Brazil, I sent him message which I am quoting herein for your information. Same considerations will apply naturally to country to which you are accredited should question be raised.

[Here follows text of the Department's telegram No. 24, June 29, 1 p. m., to the Ambassador in Brazil, printed *supra*.]

Please repeat to Embassy in Chile as Department's No. 41, noon, and to Embassy in Argentina as Department's No. 27, noon.

KELLOGG

711.5112France/356 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, June 29, 1928—8 p. m.

193. At my request, the French Ambassador called at the Department this morning. I showed him a press despatch published in one of the daily papers to effect that French Government would sign the anti-war treaty as soon as it was presented for signature, as well as another despatch also saying in effect that France would accept proposed multilateral treaty but that Briand had repeated wish of French Government that substance of my communication should be included in full in some part of the proposed treaty or its preamble, or in a supplementary protocol.

I explained to Claudel that I must decline to put these interpretations of the treaty either into a preamble or into an exchange of notes as a part of the treaty, as they would have to be sent to the Senate for consent and advice; I had written these notes merely to show what the understanding of the United States was of the effect of the treaty, and that these public declarations of interpretation should be sufficient; that I could not go any farther than I have gone already in the proposed treaty. Claudel said that he thought the press report under discussion was only newspaper talk and that he had already informed the French Government that I had gone as far as I possibly could. He also said that he understood that his Government was consulting with that of Great Britain on the subject. I replied, naturally, that I had no objection.

I also informed the British Chargé of the same thing. Telegraph if you know what action French Cabinet has taken. I have merely wished you to understand the situation.

KELLOGG

711.4112Anti-War/135 : Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

[Paraphrase]

LONDON, July 3, 1928—5 p. m.

[Received July 3—1:55 p. m.]

155. Department's 159, June 22, 6 p. m.⁸⁵ I understand that Tyrrell⁸⁶ and Sir Esme Howard are preparing British reply to the latest American proposal and that Hurst⁸⁷ and Fromageot⁸⁸ are studying legal aspect at Geneva. In this connection I learn that special consideration is being given (1) to article XVI, League of Nations Covenant; (2) to Articles 42, 43 and 44 of the Treaty of Versailles; (3) to a thesis which has been reported advanced by the French for elaboration of a special protocol of interpretation that is to be treated as an annex to the mutilateral pact and is to be signed by the powers signatories to the Locarno treaties as well as by the states adhering to the so-called French neutrality treaties.

I have been reliably informed that Sir Austen Chamberlain has expressed his regret that our latest proposal was presented to him in a final form, for either acceptance or refusal, as possibility was thereby precluded of an informal discussion on a phraseology to reconcile divergent points of view.

Have repeated to Embassies in Paris and Berlin.

ATHERTON

711.5112France/360 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, July 5, 1928—1 p. m.

[Received 4:30 p. m.]

183. Department's No. 193, June 29. I have just talked with Briand, who made the following statements:

Press despatches which you mentioned in your telegram were wholly inaccurate. Briand read your note of June 23^{88a} to Council of Ministers at its meeting last Thursday. The note was received with satisfaction, and on Briand's suggestion the Government gave its approval in principle to the draft treaty attached thereto. No exhaustive discussion of the peace pact was undertaken as several

⁸⁵ Not printed.

⁸⁶ Sir William G. Tyrrell, British Permanent Under Secretary of State for Foreign Affairs.

⁸⁷ Sir Cecil James Barrington Hurst, Legal Adviser of the British Foreign Office.

⁸⁸ M. Henri Fromageot, French juridical expert and adviser to the Ministry for Foreign Affairs on questions of international law.

^{88a} See telegram No. 179, June 20, to the Ambassador in France, p. 90.

of the Ministers were absent and as the Cabinet were preoccupied with the parliamentary situation. Briand told his colleagues that he would continue examination of situation with France's cosignatories to the Locarno treaties, by which statement presumably he meant, although he did not say so, those other than Germany, and also that the powers bound to France by treaties of neutrality must verify these conversations; that when they had reached a harmony of views he would bring the question before the Cabinet again.

These conversations, Briand made it clear, are dealing *inter alia* with feasibility of having powers mentioned above sign a protocol at same time the treaty is signed specifying that the obligations of existing treaties are contravened by nothing in the anti-war treaty. Briand said that he quite understood that, as you stated in your telegram No. 193, you cannot go any further in this respect than you have already gone.

He stated frankly that preoccupation of France was possibility that Germany would contend that the peace pact constitutes a novation of the treaties of Versailles and of Locarno, particularly of articles 42 and 43 of the Versailles treaty which are also incorporated in Locarno treaty. Although he did not think that Germany was intending to take this position, the French Government felt obliged to eliminate all possibility of it.

Briand said in conclusion that he will see that the conversations in question do not lag, by which I assume he means that he will have more time to devote to them now that Parliament is quieter and adjournment near; he feels that, as he phrased it himself, a successful solution cannot be many days distant.

Copies by mail to Belgrade, Berlin, Brussels, Bucharest, London, Prague, and Warsaw for information.

HERRICK

711.5112France/364 : Telegram

*The Secretary of State to the Ambassador in France (Herrick)*⁸⁹

WASHINGTON, July 6, 1928—3 p. m.

200. Yesterday Chilton, British Chargé d'Affaires, called to raise the question of what status under the Kellogg treaties the "act of war", defined in Article 16 of the Covenant, would have with respect to members of the League likewise signatories to the Kellogg pact, the presumption of the British being that a violation of the Kellogg treaties would consist in an act of war and that among acts of war the one contained in Article 16 of the Covenant will have to be considered. Article 16 reads:

⁸⁹ Repeated to Great Britain as Department's No. 167.

“Should any member of the League resort to war in disregard of its Covenant . . . it shall *ipso facto* be deemed to have committed an act of war against all other members of the League”.

In reply I informed him that as there is no obligation on members of the League to take war-like measures against Covenant-breaking States, there can be no inconsistency between the proposed treaty and the Covenant of the League, and as a practical matter this Government believes that the members of the League will promptly become parties to the proposed treaty. Moreover I said that it is sincerely hoped that legalistic efforts to justify in advance the violation of the proposed renunciation of war treaty will not be permitted to obscure the issue or delay the conclusion of this treaty in which the peoples of the world have manifested their wholehearted approval.

KELLOGG

711.9412Anti-War/42 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, July 6, 1928—5 p. m.

[Received July 6—9 a. m.]

82. In conversation today the Vice Minister for Foreign Affairs told me that the Foreign Office had issued instructions to the Japanese Chargé d’Affaires, Washington, to take up with the Department the question of a possible alteration of the phraseology in article 1 of the proposed anti-war treaty which reads, “declare in the names of their respective peoples”; that the Cabinet had approved the treaty and were completely satisfied with the substance of it but the Japanese Government would find some difficulty in promulgating a treaty with that phraseology; that Japanese laws and treaties are promulgated in the name of the Emperor, and the government had good reason to believe that the phrase “names of their respective peoples” would meet with very considerable objection in the Privy Council. The phrase as translated into Japanese seems to bear out this contention. He intimated that almost any other word other than “name” would be acceptable. Apparently the Japanese Government would have no difficulty in declaring “on behalf of their people”, or, “for the welfare of their people”, but for domestic political reasons “in the name of their respective peoples” is not entirely compatible with the form used in laws and treaties promulgated by the Emperor.

The Vice Minister said that the measure seems popular in Japan and represents a movement which appeals strongly to the Japanese but referred to the note from the Foreign Office dated May 26th, 1928 (a copy of which was forwarded to the Department in despatch number

868 of June 1st⁹⁰) inviting attention to the statement therein in regard to a mutually acceptable text for such a treaty. He informed me that the Japanese Government had had the question of phraseology in mind at the time of writing the note but did not wish to make a point of it in the preliminary stages assuming that there would be a meeting of some kind to settle on final draft of the treaty.

While I do not believe that the Japanese Government would refuse to adhere to the treaty if the clause referred to cannot be altered, I feel that it represents a real conviction on the part of many influential people in the Government and that the Cabinet might have difficulty in obtaining the Privy Council's consent to ratification. The domestic political situation is so uncertain and the last two Cabinets have had so much difficulty with the Privy Council in obtaining its assent to Government projects that the Prime Minister I think is extremely reluctant to place before it any measure which can be construed as shifting emphasis of governmental measures from the Throne.

NEVILLE

711.9412Anti-War/44 : Telegram

The Secretary of State to the Chargé in Japan (Neville)

WASHINGTON, July 6, 1928—6 p. m.

73. Your 82, July 6, 5 p. m. The following memorandum was handed to the Japanese Chargé d'Affaires this afternoon :

The Japanese Chargé d'Affaires called at the Secretary's request and the Secretary gave him Mr. Neville's telegram from Tokyo, dated July 6, 1928, to read. He then explained that the use of the language "declare in the names of their respective peoples" has not the meaning or the significance attributed to it by the Japanese Vice Minister of Foreign Affairs. The official text of the treaty will be in French and English and in the English the words "in the name of" are synonymous with the words "on behalf of" to which, I take it, the Japanese Government would certainly not object. Murray's *New English Dictionary*, Volume VI, Letter N, page 14, which carries more authority than any other English dictionary, defines "in the name of" as follows: "That the action is done on account of, or on behalf of some other person or persons", so that the translation into the Japanese would be perfectly accurate if the Japanese Government translated the treaty "on behalf of" their people.

The first treaty submitted by M. Briand contains the phrase "au nom du Peuple français et du Peuple des Etats-Unis d'Amérique". The *Dictionnaire de L'Académie Française*, 6th Edition, Volume II, page 271, the most authoritative French dictionary, gives as a definition of the phrase, "au nom de", the phrase "de la part de",

⁹⁰ Despatch not printed; see telegram No. 66, May 26, 11 a. m., from the Ambassador in Japan, p. 75.

which, translated in English, means "on behalf of", so that either the French or English text would justify a translation into Japanese of "on behalf of".

The Secretary explained that this was the language originally proposed by France, that it has now been submitted to fourteen Governments, and to change the wording would probably lead to many suggestions of other changes which would inevitably cause delay and embarrassment. He said he was very sure that under the circumstances the Japanese Government would see that the language had no such significance as is attributed to it.

KELLOGG

711.5212Anti-War/7

The Secretary of State to the Ambassador in Spain (Hammond)

No. 423

WASHINGTON, July 6, 1928.

SIR: On June 14, 1928, the Spanish Ambassador called upon me to say that he had seen something in the press that we had invited Belgium, Poland and Czechoslovakia to become parties to the multi-lateral treaty. I told him that was incorrect; that we had not communicated any invitations to those governments or any other governments except the five Powers. I said that the notes exchanged between France and the United States indicated that France desired other countries to be parties and that I had said we would be perfectly willing to have all the parties to the Locarno treaties parties to this treaty. I said that in my speech but that I had not communicated with these governments directly. I had understood that they were perfectly willing to sign and that I thought quite likely the European Powers would desire all of the parties to the Locarno treaty made parties to this treaty as original signatories and possibly also some of the other European states. He wanted to know if we wished Spain and I said we would be very glad to have Spain sign at any time that she desired to do so. I gave him a copy of all the correspondence.

On June 28 the Ambassador called again and asked if I would give him a copy of my last note and the form of treaty. I gave him two copies.

He said that his country would rather come in as an original party and not under the general omnibus clause that it might be adhered to by any country after it became effective. He asked to whom the communication had been sent and I called his attention to the list of countries at the head of the note and explained to him that these nations had been asked because they were parties to the Locarno treaties. I said if Spain wants to sign this treaty as it is without further negotiation for him to find out confidentially and

let me know and I had no doubt the other countries would be glad to have Spain sign. Certainly the United States would, but I would like to know in advance whether his country would sign or whether it simply opened up another country for negotiations. He said he would find out but he intimated that his Government would sign.

I am [etc.]

[For the Secretary of State:]

FRANCIS WHITE

711.6212Anti-War/64

The Ambassador in Germany (Schurman) to the Secretary of State

No. 3706

BERLIN, July 11, 1928.

[Received July 23.]

SIR: Confirming my telegram No. 149 of July 11, 1928,⁹¹ I have the honor to transmit herewith, in copy and translation, text of the reply of the German Government, received under even date, to the note of June 23, 1928, transmitting the revised draft of the proposed anti-war treaty.

I have [etc.]

JACOB GOULD SCHURMAN

[Enclosure—Translation]

The State Secretary of the German Foreign Office (Schubert) to the American Ambassador (Schurman)

V M 3323

BERLIN, July 11, 1928.

MR. AMBASSADOR: I acknowledge the receipt of Your Excellency's note of June 23, 1928, regarding the conclusion of an international pact for the renunciation of war, and have the honor to reply thereto as follows on behalf of the German Government.

The German Government has examined with the greatest care the contents of the note and the revised draft of the pact which was enclosed. The Government is pleased to state that the standpoint of the Government of the United States of America as set forth in the note corresponds with the fundamental German conception as it was communicated in the note of April 27, 1928.⁹² The German Government also agrees to the changes in the Preamble of the draft of the pact. It is therefore pleased to be able to state that it takes cognizance of the statements made by the Government of the United States of America contained in Your Excellency's note of June 23, that it agrees

⁹¹ Not printed.

⁹² *Ante*, p. 42.

to the interpretation which is given therein to the provisions of the proposed pact, and that it is accordingly ready to sign this pact in the form now proposed.

Accept [etc.]

SCHUBERT

711.5112France/373 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, July 14, 1928—5 p. m.

[Received 11:40 p. m.⁹³]

193. Following is translation of note received at 4 o'clock from the Foreign Office:

"Mr. Ambassador: By your letter of June 23 last Your Excellency was good enough to transmit to me a revised text of the draft treaty for the renunciation of war accompanied by the interpretations given to it by the United States.

I beg you to convey to the Government of the United States the interest with which the Government of the Republic has taken cognizance of this new communication, which is suited to facilitate the signature of the treaty whose successful conclusion is equally close to the hearts of the French and American nations.

First of all it follows from the new preamble that the proposed treaty indeed aims at the perpetuation of the pacific and friendly relations under the contractual conditions in which they are today established between the interested nations; that it is essentially a question for the signatory powers of renouncing war 'as an instrument of their national policy;' and also that the signatory power which hereafter might seek by itself resorting to war to promote its own national interests, should be denied the benefits of the treaty.

The Government of the Republic is happy to declare that it is in accord with these new stipulations.

The Government of the Republic is happy moreover to take note of the interpretations which the Government of the United States gives to the new treaty with a view to satisfying the various observations which had been formulated from the French point of view.

These interpretations may be resumed as follows:

Nothing in the new treaty restrains or compromises in any manner whatsoever the right of self-defense. Each nation in this respect will always remain free to defend its territory against attack or invasion; it alone is competent to decide whether circumstances require recourse to war in self-defense.

Secondly, none of the provisions of the new treaty is in opposition to the provisions of the Covenant of the League of Nations nor with those of the Locarno treaties or the treaties of neutrality.

Moreover, any violation of the new treaty by one of the contracting parties would automatically release the other contracting powers from their obligations to the treaty-breaking state.

⁹³ Telegram in four sections.

Finally, the signature which the Government of the United States has now offered to all the signatory powers of the treaties concluded at Locarno and which it is disposed to offer to all powers parties to treaties of neutrality, as well as the adherence made possible to other powers, is of a nature to give the new treaty, in as full measure as can practically be desired, the character of generality which accords with the views of the Government of the Republic.

Thanks to the clarifications given by the new preamble and thanks moreover to the interpretations given to the treaty, the Government of the Republic congratulates itself that the new convention is compatible with the obligations of existing treaties to which France is otherwise a contracting party, and the integral respect of which is necessarily imperatively imposed upon her by good faith and loyalty.

In this situation and under these circumstances, the Government of the Republic is happy to be able to declare to the Government of the United States that it is now entirely disposed to sign the treaty as proposed by the letter of Your Excellency of June 23, 1928.

At the moment of thus assuring its contribution to the realization of a long-matured project, all the moral significance of which it had gauged from the beginning, the Government of the Republic desires to render homage to the generous spirit in which the Government of the United States has conceived this new manifestation of human fraternity, which eminently conforms to the profound aspirations of the French people as well as of the American people and responds to the sentiment, more and more widely shared among peoples, of international solidarity.

Please accept, etc., (signed) Aristide Briand, Paris, July 14, 1928."

HERRICK

711.6512Anti-War/60 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

ROME, July 15, 1928—2 p. m.

[Received July 15—1:11 p. m.]

72. I quote in translation the text of the reply, dated today, of the Italian Government to my note of June 23 regarding the anti-war treaty:

"Excellency: I have the honor to refer to the letter which, under instructions of your Government, Your Excellency addressed to me under date of the 23rd of June last and to ask Your Excellency to inform your Government as follows:

The Royal Government, which has attentively examined the last draft of a treaty for the elimination of war proposed by the United States, takes note of and agrees with the interpretation of the said treaty which the Government of the United States sets forth in the above-mentioned note of June 23rd last and on this premise declares that it is disposed to proceed to the signature thereof.

I am happy to take this occasion to renew to Your Excellency the assurances of my highest consideration. (Signed) Mussolini."

FLETCHER

711.41 d 12Anti-War/14 : Telegram

The Minister in the Irish Free State (Sterling) to the Secretary of State

DUBLIN, July 16, 1928—9 a. m.

[Received July 16—8:50 a. m.]

[14.] I have received the following note from the Minister for External Affairs. Unless you advise to the contrary he proposes to publish it in local papers Tuesday morning:

“14 July, 1928.

Excellency: Your Excellency's note of the 23rd June enclosing a revised draft of proposed treaty for the renunciation of war has been carefully studied by the Government of the Irish Free State.

As I informed you in my note of the 30th May, the Government of the Irish Free State were prepared to accept unreservedly the draft treaty proposed by your Government on the 13th April, holding, as they did, that neither their right of self-defense nor their commitments under the Covenant of the League of Nations were in any way prejudiced by its terms.

The draft treaty as revised is equally acceptable to the Government of the Irish Free State, and I have the honor to inform you that they are prepared to sign it in conjunction with such other governments as may be so disposed. As the effectiveness of the proposed treaty as an instrument for the suppression of war depends to a great extent upon its universal application, the Government of the Irish Free State hope that the treaty may meet with the approbation of the other governments to whom it has been sent and that it may subsequently be accepted by all the other powers of the world.

Accept, Excellency, the renewed assurance of my highest consideration. P. McGilligan.”

STERLING

711.5212Anti-War/12 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, July 16, 1928—11 a. m.

218. Press reports yesterday stated that this Government had invited Spain to become an original signatory to the anti-war treaty. This report is incorrect. I should not invite anyone without first consulting the other powers, France especially. The Spanish Ambassador requested us to send his Government a copy of my last note, and said that Spain would like to be invited to sign the treaty as an original party. I told Señor Padilla that I could not extend such an invitation, but that after the other five powers had agreed on the form of a treaty we would bring the subject before them for consideration.

In my telegram No. 198, July 5, noon,⁹⁴ I asked that you request our Ambassador in Spain to present to the Minister for Foreign Affairs a copy of our latest note, so that the Spanish Government may have a complete copy of all correspondence up to present time.

Repeat to Madrid for information of Ambassador.

KELLOGG

711.0012Anti-War/69 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, July 17, 1928—7 p.m.

221. This morning the French Ambassador came in and read me portions of a telegram in which his Government had instructed him to ask whether it would be satisfactory to have the signature of the treaty renouncing war take place approximately August 25. I said I was grateful for the expressions of good will of M. Briand and I would be exceedingly happy to mark the significance of the occasion by signing the treaty in Paris at about that time; but I said I did not wish to do this unless all the European Foreign Ministers concerned should also be present to sign at the same time. I told him naturally I was not sure that the Japanese Foreign Minister could get there, but this was not absolutely essential. The Ambassador said he thought that the Foreign Ministers of all countries would be indeed glad to have an opportunity of proclaiming their allegiance to the idea of the treaty and that the necessary steps to sound out the Foreign Ministers would be undertaken by the French Government. As I previously explained to him, I should naturally be glad to invite all of them to sign in Washington if they so wished.

KELLOGG

711.4212Anti-War/42

The Chargé in Canada (Baldwin) to the Secretary of State

No. 529

OTTAWA, July 17, 1928.

[Received July 19.]

SIR: Referring to the Legation's telegrams No. 155 of July 17, 2 p. m., and No. 156 of July 17, 4 p. m.,⁹⁵ I have the honor to transmit herewith enclosed a copy of a note received from W. L. Mackenzie King, Secretary of State for External Affairs, stating that His Majesty's Government in Canada cordially accepts the Treaty as revised and is prepared to participate in its signature.

⁹⁴ Not printed.

⁹⁵ Neither printed.

Since the Canadian Government does not desire that its reply be published before that of the British Government, it has been agreed that the Canadian reply will be released for publication in the morning newspapers of Thursday, July 19.

I have [etc.]

LAVERNE BALDWIN

[Enclosure]

The Canadian Secretary of State for External Affairs (Mackenzie King) to the American Minister (Phillips)

OTTAWA, 16 July, 1928.

SIR: I desire to acknowledge your note of June 23rd and the revised draft which it contained of the Treaty for the Renunciation of War, and to state that His Majesty's Government in Canada cordially accepts the Treaty as revised and is prepared to participate in its signature.

Accept [etc.]

W. L. MACKENZIE KING

711.4112Anti-War/154 : Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

[Paraphrase]

LONDON, July 18, 1928—11 a. m. [p. m?]

[Received 3:11 p. m.]

168. This morning Chamberlain handed me the British reply to our note, together with the replies of Governments of Australia, India, New Zealand, and South Africa.

Chamberlain stated that he was fully in sympathy with this movement initiated by France, and that his careful study of the pact and his "methods" leading up to its acceptance were for purpose of insuring whole-hearted cooperation with the United States. He said that the British Government was delighted to join with that of the United States in this movement especially as he felt that it marked the definite participation by the United States in the question of world peace. Furthermore he felt that the potentialities of the pact were very great.

I replied that I thought that the conclusion of the pact would mark a new era. Chamberlain said that his feeling was that force of the pact lay in attitude of the United States towards any nation breaking it; if, he said, the utterances of our leading statesmen, writers, and the American press should indicate that any nation which violated the pact would be condemned as merely "naughty" and the United States should continue at the same time to export material to the country breaking the pact, its effect would be slight. On the other hand, if the American attitude were to be indicated by the statesmen, the press,

and the people of the United States as condemning to the last utterance a nation which broke the pact, then the potentialities of its force were very great.

My reply was that this was an election year in the United States, as he was aware; that both the Republican and Democratic parties had included a plank on outlawry of war in their platforms, and that many different prominent men and organizations had already enthusiastically endorsed attitude of President Coolidge and the Secretary of State.

I have been informed that Foreign Office has already notified British Embassy at Washington to inform you that the British reply will be laid before Parliament on July 19 at 10 p. m., and will be published in British press the next day.

ATHERTON

711.4112Anti-War/159

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 2900

LONDON, July 18, 1928.

[Received July 27.]

SIR: I have the honor to refer to my despatch No. 2862, June 26, 1928,⁹⁶ giving the text of the note transmitted to the Foreign Office, dated June 23, 1928,⁹⁷ relating to the pact for the outlawry of war, and in this connection to enclose copies, in quintuplicate, of the replies handed me today by Sir Austen Chamberlain from His Majesty's Government in Great Britain and Northern Ireland and His Majesty's Governments in the Commonwealth of Australia, New Zealand and the Union of South Africa, as well as from the Government of India, referred to in my telegram No. 163, July 18, 12 noon, and my subsequent telegrams of today's date.⁹⁸

I have [etc.]

RAY ATHERTON

[Enclosure 1]

*The British Secretary of State for Foreign Affairs (Chamberlain)
to the American Chargé (Atherton)*

[LONDON,] July 18, 1928.

SIR: I am happy to be able to inform you that after carefully studying the note which you left with me on the 23rd June, transmitting the revised text of the draft of the proposed treaty for the renunciation of war, His Majesty's Government in Great Britain accept the proposed treaty in the form transmitted by you and will

⁹⁶ Not printed.

⁹⁷ See Department's telegram No. 179, June 20, 6 p. m., to the Ambassador in France, p. 90.

⁹⁸ With the exception of telegram No. 168, *supra*, none printed.

be glad to sign it at such time and place as may be indicated for the purpose by the Government of the United States.

My Government have read with interest the explanations contained in your note as to the meaning of the draft treaty, and also the comments which it contains upon the considerations advanced by other Powers in the previous diplomatic correspondence.

You will remember that in my previous communication of the 19th May I explained how important it was to my Government that the principle should be recognised that if one of the parties to this proposed treaty resorted to war in violation of its terms, the other parties should be released automatically from their obligations towards that party under the treaty. I also pointed out that respect for the obligations arising out of the Covenant of the League of Nations and of the Locarno treaties was the foundation of the policy of the Government of this country, and that they could not agree to any new treaty which would weaken or undermine these engagements.

The stipulation now inserted in the preamble under which any signatory Power hereafter seeking to promote its national interests by resort to war against another signatory is to be denied the benefits furnished by the treaty is satisfactory to my Government, and is sufficient to meet the first point mentioned in the preceding paragraph.

His Majesty's Government in Great Britain do not consider, after mature reflection, that the fulfilment of the obligations which they have undertaken in the Covenant of the League of Nations and in the Treaty of Locarno is precluded by their acceptance of the proposed treaty. They concur in the view enunciated by the German Government in their note of the 27th April that those obligations do not contain anything which could conflict with the treaty proposed by the United States Government.

My Government have noted with peculiar satisfaction that all the parties to the Locarno Treaty are now invited to become original signatories of the new treaty, and that it is clearly the wish of the United States Government that all members of the League should become parties either by signature or accession. In order that as many States as possible may participate in the new movement, I trust that a general invitation will be extended to them to do so.

As regards the passage in my note of the 19th May relating to certain regions of which the welfare and integrity constitute a special and vital interest for our peace and safety, I need only repeat that His Majesty's Government in Great Britain accept the new treaty upon the understanding that it does not prejudice their freedom of action in this respect.

I am entirely in accord with the views expressed by Mr. Kellogg in his speech of the 28th April that the proposed treaty does not restrict or impair in any way the right of self-defence, as also with his opinion that each State alone is competent to decide when circumstances necessitate recourse to war for that purpose.

In the light of the foregoing explanations, His Majesty's Government in Great Britain are glad to join with the United States and with all other Governments similarly disposed in signing a definitive treaty for the renunciation of war in the form transmitted in your note of the 23rd June. They rejoice to be associated with the Government of the United States of America and the other parties to the proposed treaty in a further and signal advance in the outlawry of war.

I have [etc.]

AUSTEN CHAMBERLAIN

[Enclosure 2]

*The British Secretary of State for Foreign Affairs (Chamberlain),
on Behalf of the Commonwealth of Australia, to the American
Chargé (Atherton)*

A 4793/1/45

[LONDON,] 18 July, 1928.

SIR: In the note which you were so good as to address to me on June 23rd last you stated that the Government of the United States would be glad to be informed whether His Majesty's Government in the Commonwealth of Australia were willing to join with the United States and other similarly disposed Governments in signing a definitive treaty for the renunciation of war in the form of the draft treaty enclosed in your note.

2. I now beg leave to inform you that His Majesty's Government in the Commonwealth of Australia have given the most careful consideration to your note above-mentioned and to the revised draft treaty which accompanied it, and that they accept the assurance given by the United States Secretary of State that the right of self-defence of a signatory State will not be impaired in any way by acceptance of the proposed treaty.

3. The Commonwealth Government have further observed that it is stated in your note of June 23rd that the preamble to the revised treaty accords express recognition to the principle that if one signatory State resorts to war in violation of the treaty, the other signatory States will be released from their obligations under the treaty to that State. They accept this declaration that the preamble in this respect is to be taken as a part of the substantive provisions of the treaty itself.

4. They have also particularly examined the draft treaty from the point of view of its relationship to the Covenant of the League of

Nations, and in this connexion have come to the conclusion that it is not inconsistent with the latter instrument.

5. His Majesty's Government in the Commonwealth of Australia add that the foregoing are the only questions to which the proposed treaty gives rise in which they are especially interested. As the text of the treaty which has now been submitted is completely satisfactory to them so far as these specific points are concerned, they will be quite agreeable to signing it in its present form.

I have [etc.]

AUSTEN CHAMBERLAIN

[Enclosure 3]

*The British Secretary of State for Foreign Affairs (Chamberlain),
on Behalf of the Government of New Zealand, to the American
Chargé (Atherton)*

A.4793/1/45

[LONDON,] 18 July, 1928.

SIR: In the note which you were so good as to address to me on June 23rd last you stated that the Government of the United States would be glad to be informed whether His Majesty's Government in New Zealand were willing to join with the United States and other similarly disposed Governments in signing a definitive treaty for the renunciation of war in the form of the draft treaty enclosed in your note.

2. I now beg leave to inform you that His Majesty's Government in New Zealand desire to associate themselves with the terms of the note which I have had the honour to address to you to-day notifying you of the willingness of His Majesty's Government in Great Britain to sign a multi-lateral treaty for the renunciation of war as proposed by the Government of the United States. His Majesty's Government in New Zealand desire me to add that they will have the utmost satisfaction, in co-operation with His Majesty's Governments in other parts of the British Empire, in joining with the Government of the United States and with all other Governments similarly disposed in signing a treaty in the form proposed.

I have [etc.]

AUSTEN CHAMBERLAIN

[Enclosure 4]

*The British Secretary of State for Foreign Affairs (Chamberlain),
on Behalf of the Union of South Africa, to the American Chargé
(Atherton)*

A 4793/1/45

[LONDON,] 18 July, 1928.

SIR: In the note which you were so good as to address to me on June 23rd last you stated that the Government of the United States would be glad to be informed whether His Majesty's Government in

the Union of South Africa were willing to join with the United States and other similarly disposed Governments in signing a definitive treaty for the renunciation of war in the form of the draft treaty enclosed in your note.

2. I now beg leave to inform you that the following message has been received by telegraph from General Hertzog, Minister of External Affairs of the Union of South Africa, for communication to you:—

“On behalf of His Majesty’s Government in the Union of South Africa I have the honour to inform you that my Government have given their most serious consideration to the new draft treaty for the renunciation of war, submitted in your note of 23rd June, and to the observations accompanying it.

“My Government note with great satisfaction (a) that it is common cause that the right of legitimate self-defence is not affected by the terms of the new draft; (b) that, according to the preamble, any signatory who shall seek to promote its national interests by resort to war shall forfeit the benefits of the treaty; and (c) that the treaty is open to accession by all powers of the world.

“My Government have further examined the question whether the provisions of the present draft are inconsistent with the terms of the Covenant of the League of Nations by which they are bound, and have come to the conclusion that this is not the case, and that the objects which the League of Nations was constituted to serve can but be promoted by members of the League of Nations participating in the proposed treaty.

“His Majesty’s Government in the Union of South Africa have therefore very great pleasure in expressing their willingness to sign, together with all other Powers which might be similarly inclined, the treaty in the form proposed in your note under reference.”

I have [etc.]

AUSTEN CHAMBERLAIN

[Enclosure 5]

*The British Secretary of State for Foreign Affairs (Chamberlain),
on Behalf of the Government of India, to the American Chargé
(Atherton)*

A. 4793/1/45

[London,] 18 July, 1928.

SIR: In the note which you were so good as to address to me on June 23rd last you stated that the Government of the United States would be glad to be informed whether the Government of India were willing to join with the United States and other similarly disposed Governments in signing a definitive treaty for the renunciation of war in the form of the draft treaty enclosed in your note.

2. I now beg leave to inform you that the Government of India associate themselves wholeheartedly and most gladly with the terms of the note which I have had the honour to address to you today

notifying you of the willingness of His Majesty's Government in Great Britain to sign a multi-lateral treaty for the renunciation of war as proposed by the Government of the United States.

I have [etc.]

AUSTEN CHAMBERLAIN

711.9412Anti-War/48 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, July 18, 1928—6 p. m.

[Received July 18—8:48 a. m.]

86. My telegram No. 83, July 9, 2 p. m.⁹⁹ Foreign Minister told me today that the question of wording is still causing some difficulty in the Government. He said that this is the only reason for Japanese Parliament's delay in answering, but he hoped to be able to reply favorably in a few days.

NEVILLE

711.5512Anti-War/22

The Ambassador in Belgium (Gibson) to the Secretary of State

No. 288

BRUSSELS, July 18, 1928.

[Received July 28.]

SIR: In confirmation of my telegram No. 43, of July 17, 7 p. m.,⁹⁹ I have the honor to transmit herewith a copy, with English translation, of the note by which the Minister for Foreign Affairs informed me of the Belgian Government's willingness to sign the proposed multi-lateral treaty providing for the renunciation of war.

Although published textually in all of last evening's and this morning's newspapers, the note has elicited no editorial comment from the Belgian press.

I have [etc.]

HUGH GIBSON

[Enclosure—Translation]

The Belgian Minister for Foreign Affairs (Hymans) to the American Ambassador (Gibson)

Direction P.

No. 452-32-611-5041

BRUSSELS, July 17, 1928.

MR. AMBASSADOR: The Government of the King has examined with lively sympathy the letter of June 23 in which, acting under instructions from your Government, you have been good enough to invite Belgium to conclude a multilateral treaty providing that

⁹⁹ Not printed.

the signatory States bind themselves to renounce war as an instrument of national policy.

Belgium is deeply attached to peace. She has always worked actively for the realization of movements tending to consolidate peace. She is therefore happy to pay her tribute to the idea inspiring the draft treaty.

The text prepared by the Government of Washington commands the full approbation of the Royal Government. This Government notes with satisfaction the explanations and interpretations contained in Your Excellency's letter. It is pleased to note that the proposed pact will maintain unimpaired the rights and obligations arising from the Covenant of the League of Nations and from the Locarno agreements which constitute for Belgium fundamental guarantees of security.

The Belgian Government highly appreciates the action of the American Government which permits it to join in the great work destined to develop the spirit of peace throughout the world and to diminish in future the risks of new catastrophes.

The Royal Government would be grateful if the Government of the United States would inform it as to the date and place which it may choose for the signature of the treaty.

I avail myself [etc.]

HYMANS

711.60 c 12Anti-War/39

The Minister in Poland (Stetson) to the Secretary of State

No. 1843

WARSAW, July 18, 1928.

[Received August 2.]

SIR: In confirmation of my telegraphic despatch No. 51 of July 16 [17], 6 p. m.,² I have the honor to transmit, herewith, a copy of the original text, in French, of the note from the Polish Ministry of Foreign Affairs, signifying Poland's acceptance of Secretary Kellogg's pact for the renunciation of war. A translation of the above mentioned note, as transmitted in my telegram referred to, is also enclosed.

For the information of the Department, I may say that the note in question was handed to Mr. Werlich, Third Secretary of this Legation, by Count Joseph Potocki, Chief of the Anglo-American Section of the Polish Foreign Office, at 12:20 P. M., July 17th, ultimo [*sic*].

I have [etc.]

For the Minister:

J. WEBB BENTON

Secretary of Legation

² Not printed.

[Enclosure—Translation]

The Polish Under Secretary for Foreign Affairs (Wysocki) to the American Minister (Stetson)

P. II. 40.913/28

WARSAW, July 8 [17?], 1928.

MR. MINISTER: I have the honor to acknowledge the receipt of the note No. 1175, of June 23, last, which you were good enough to send me, to which was attached the draft of a multilateral pact against war, as proposed by His Excellency, Mr. Kellogg.

The principles which Mr. Kellogg has emphasized in the draft above-mentioned being entirely conformable with the objectives that Poland never ceases pursuing in its foreign policy, I have the honor to communicate to you the fact that the Polish Government accepts the text of the above stated pact and declares itself ready to affix its signature thereto.

As regards the interpretation of the pact in question which you have been good enough to give in your note of the 23rd of June and which confirms the fact that the pact is destined to insure the consolidation of peaceful relations between States on the basis of the existing international obligations, the Polish Government takes note of the following statements:

(1) That the pact does not affect in any way the right of legitimate defense inherent in each State;

(2) That each State signatory to the pact who may endeavor to realize its national interests by means of war shall be deprived of the benefits of the said pact;

(3) That no incompatibility exists between the stipulations of the pact against war and the obligations derived from the Covenant of the League of Nations for States which are members of the latter. This statement results from the very fact that the pact proposed by Mr. Kellogg stipulates the renunciation of war as an instrument of national policy.

These precisions as well as the opportunity given to all States to adhere to the pact are of a nature to assure to Poland the possibility of satisfying her international obligations.

The Polish Government permits itself to express the hope of seeing the realization in the nearest future of this great common work of peace and stabilization destined to assure its benefits to all mankind.

Please accept [etc.]

ALFRED WYSOCKI

711.5212Anti-War/17

Memorandum by the Chief of the Division of Western European Affairs (Marriner)

[WASHINGTON,] July 19, 1928.

The Spanish Ambassador called to inform the Secretary that his Government had perfectly understood the situation with respect to the notes communicated to it for its information and that the Prime Minister was very sorry indeed that incorrect reports had appeared in the Spanish press and had emanated from Madrid on this point. He brought with him the text of a communique which his Government desired to issue on the subject which stated that the Spanish Government, having been invited to express its willingness to sign the treaty after examining the notes sent to it for its information, was willing so to do and expected an invitation shortly. The Secretary would not agree to this, but said that he was quite willing that Spain should say that, after examining the notes submitted to it for its information, it was willing to sign as an original party without reservations if invited so to do, and asked that the following alternative draft be considered by the Spanish Government for an informal statement:

“The Spanish Government having examined with the greatest care the provisions and contents of the note of the Secretary of State of the United States of America addressed to the principal Powers together with the explanation given to the provisions of the proposed pact for the renunciation of war, which note was communicated to the Spanish Government for its information by the American Ambassador at Madrid, is prepared to express its indorsement of the high purposes of the treaty which accord with the pacific attitude of the Spanish nation and will be happy to sign as an original party without reservations if invited so to do.”

The Secretary told the Ambassador that when he had received all the answers he would raise the question with the other Governments and that it was absolutely necessary that he do this as he could not take the initiative or the sole action of inviting other Powers since the inclusion of any Power not at present in the scope of the negotiations would certainly cause application to be made by many others. He told the Ambassador that there had been some delay in the Japanese reply due to some questions of phraseology, but that he would take the question up, as soon as he received a favorable reply from Japan, with the other Powers.

Subsequently Mr. Marriner told the Ambassador that the question had become somewhat complicated by the leak in the Spanish press since other Powers had begun making similar inquiries and the question of where to draw the line might be of great difficulty. The Am-

bassador pointed out that one difficulty would not arise if Spain were included among the original signatories and that would be any difficulty as to ratifications, since as there was no Parliament in Spain, the signature of the Government required no ratification. The Ambassador expressed his real disturbance that the leak in the Spanish press had further complicated the question, and said he hoped that the Secretary understood that this was not the fault of the Spanish Government.

J. T[HEODORE] M[ARRINER]

711.60 f 12Anti-War/33 : Telegram

The Minister in Czechoslovakia (Einstein) to the Secretary of State

PRAGUE, July 20, 1928—10 a. m.

[Received 9 p. m.]

62. My telegram number [61?] July 10 [19], 1 p. m.³ Text of note from Minister for Foreign Affairs:

“Mr. Minister: I have had the honor of receiving Your Excellency’s letter of June 23rd by which the Government of the United States invites the Government of the Czechoslovak Republic to sign the proposed treaty for the renunciation of war. The same invitation was transmitted to our representative in Washington. The letter contains in addition to the integral text of the proposed treaty a commentary on the text which explains the remarks of the French Government and indicates in detail the meaning and the significance which the Government of the United States attaches to the multi-lateral treaty in the event of the treaty’s signature, ratification, and enactment.

I have the honor to transmit to Your Excellency by this note the reply of the Czechoslovak [Government].

1. First I would very respectfully thank the Government of the United States for having addressed its invitation to us. From the beginning we have followed the negotiations between the French and American Governments on the subject of the pact for the renunciation of war with the greatest sympathy and attention, and were ready at any moment to associate ourselves with this noble undertaking, which marks a memorable date in the history of the world after the war. In our negotiations which I have had the honor, during the last few months, to carry on with the representatives of the United States, France and Great Britain, I have several times emphasized the importance of this act and the political necessity of associating thereto also the other powers and especially those who have assumed obligations by their negotiations at Locarno in 1925. The Government of the United States, agreeing fully in this with the other powers, has been good enough to recognize the justice of this point of view and

³ Not printed.

addressed to us its invitation. The Czechoslovak Government attributes thereto a considerable political importance and warmly thanks the Washington Government.

2. In accordance with the negotiations prior to the signing of the treaty, as well as by the changes made in the preamble from the original text, and from the explanations contained in Your Excellency's letter of June 23, 1928, it is clear that there is nothing in this treaty in opposition either to the provisions of the Covenant of the League of Nations, nor with those of the Locarno treaties, or the neutrality treaties, nor, in general, with the obligations contained in existing treaties which the Czechoslovak Republic has hitherto made.

3. From the explanations given in Your Excellency's letter it is further brought out that any violation of the multilateral treaty by one of the contracting parties would free entirely the other signatory powers from their obligations towards the power which might have violated the stipulations of this treaty; it is furthermore apparent that the right of self-defense is in no way weakened nor restricted by the obligations of the new treaty and that each power is entirely free to defend itself according to its will and its necessities against attack and foreign invasion.

4. As thus defined both in the text of the preamble and in the statements of Your Excellency's letter, the goal of the new treaty, according to the opinion of the Czechoslovak Republic, is to consolidate and maintain peaceful relations and peaceful and friendly collaboration under the contractual terms in which these have today been established between the interested nations. By their signature, the contracting parties will renounce war as an instrument of their national policy aimed to satisfy their selfish interests. This would be an immense benefit for humanity; and the Government of the Czechoslovak Republic rejoices to see that the American Government is ready to offer participation in this treaty, on the one hand to the powers who are parties to the neutrality treaties and on the other to all other powers in order to invest it with as universal a character as possible.

5. The Government of the Czechoslovak Republic, having noted everything contained in Your Excellency's note, expresses its point of view on this subject as shown in the foregoing, thus confirming the explanations of your note of June 23, 1928. It is very happy to be able to reply in the affirmative to the invitation of the Washington Government and, thanking it again and most particularly for its generous efforts toward consolidating and maintaining world peace, declares that it is now ready to sign the text of the multilateral treaty in accordance with the proposition of His Excellency, Mr. Kellogg, as set forth in Your Excellency's letter of June 23, 1928.

I venture to add that the Government of the Czechoslovak Republic gladly associates itself with all those who have rendered warm homage to the noble manifestation for world peace made by the Government of the United States and that the foreign policy of our country sees therein the realization of the ends which it has pursued for ten years.

Pray accept, Mr. Minister, the expressions of my highest consideration. (Signed) Eduard Beneš."

EINSTEIN

711.9412Anti-War/51 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, July 20, 1928—6 p. m.

[Received July 20—10:23 a. m.]

88. Department's 68, June 20, 6 p. m.⁴ Baron Tanaka today handed me the Japanese reply to the note which I delivered on June 23rd. He said that the Japanese Government would like the text kept confidential until noon on Saturday, Tokyo time, corresponding to 10 p. m., Friday, Washington time.

In handing me the note Baron Tanaka stated that he had received a telegram from the Japanese Chargé d'Affaires, Washington, referring to the conversation the latter had had with the Secretary of State in which the Secretary suggested the possibility of his going to Paris for the purpose of signing the treaty there. He said he appreciated the sentiments of the Secretary and while he would be unable because of the pressure of his duties in Tokyo to go to Paris himself he wished me to convey his personal congratulations to the Secretary on the success of the negotiations and his regret at not being able to meet him.

I took occasion to tell him I was sure my Government would be deeply gratified by the adherence of Japan to the treaty, particularly in view of the difficulty presented in this country by the wording of the document. I think perhaps some official acknowledgment on this point would be appreciated.

The note reads as follows:

“Monsieur le Chargé d'Affaires, I have the honor to acknowledge the receipt of your note of the 23rd ultimo in which you recall to my attention your Government's identic note of the 13th of April of this year, enclosing, together with certain correspondence, the preliminary draft of a treaty, and inquiring whether this Government were in a position to give favorable consideration to the latter. Your note under reply further recalls that on the 20th of April the Government of the French Republic circulated among the interested Governments an alternative draft treaty, and that on the 28th of April the Secretary of State of the United States of America explained fully the construction placed by that Government on their own draft, in view of the matter emphasized in the French alternative.

You now further inform me that the British, German, and Italian Governments have replied to your Government's notes of the 13th April last, and that the Governments of the British self-governing Dominions and of India have likewise replied to invitations addressed to them on the suggestion of His Britannic Majesty's Government in Great Britain; and you observe that none of these Governments has expressed any dissent from the construction above referred to, or any disapproval of the principle underlying the proposals; nor have they

⁴ See footnote 81, p. 90.

suggested any specific modifications of the text of the draft; and you proceed to reenforce in detail the explanations made by the Secretary of State in his speech of the 28th April.

You then transmit for the consideration of this Government the revised draft of a multilateral treaty, which takes in the British self-governing dominions, India and all parties to the Locarno treaty, as original parties, and in the preamble of which is included a statement which is directed to recognizing the principle that if a state goes to war in violation of the treaty, the other contracting powers are released from their obligations under the treaty to that state.

Such a multilateral treaty as so revised, you are instructed to state your Government are ready to sign at once, and you express the fervent hope that this Government will be able promptly to indicate their readiness to accept it in this form without qualification or reservation. You conclude by expressing the desire of the Government of the United States to know whether my Government are prepared to join with the United States and other similarly disposed governments in signing a definitive treaty in the form so transmitted.

In reply, I have the honor to inform you that the Japanese Government are happy to be able to give their full concurrence to the alterations now proposed, their understanding of the original draft submitted to them in April last being, as I intimated in my note to His Excellency, Mr. MacVeagh dated the 26th of May, 1928, substantially the same as that entertained by the Government of the United States. They are therefore ready to have produced instructions for the signature, on that footing, of the treaty in the form in which it is now proposed.

I cannot conclude without congratulating your Government most warmly upon the rapid and general acceptance which their proposals have met with. The Imperial Government are proud to be among the first to be associated with a movement so plainly in unison with the hopes everywhere entertained, and confidently concur with the high probability of the acceptance of this simple and magnanimous treaty by the whole civilized world.

I beg you, Monsieur le Chargé d'Affaires, to accept the renewed assurance of my high consideration. (Signed) Baron Giichi Tanaka, Minister for Foreign Affairs."

NEVILLE

711.5112France/357: Telegram

*The Secretary of State to the Ambassador in France (Herrick)*⁵

[Paraphrase]

WASHINGTON, July 23, 1928—noon.

226. Through its Ambassador at Washington the Spanish Government has made reiterated representations for inclusion as an original signatory to the treaty for the renunciation of war. I have stated

⁵ The same telegram was sent to Great Britain (No. 173), Germany (No. 81), and Italy (No. 86).

to the Ambassador many times that this Government did not object to Spain's becoming a party to treaty, but that question of the inclusion of further powers at time of affixing signatures was not one which I could decide alone but one on which I should have to consult the other signatory Governments. While treaty was being negotiated it was manifestly inadvisable to invite in more countries for negotiation. The British Dominions were invited, of course, at the request of the British Government, as they form an integral part of the British Empire; and Czechoslovakia, Belgium and Poland were invited at instance of France as they were original signatories to the Locarno Treaties. Were we now to extend the original signatories to take in Spain, the question will arise how many more powers will wish to come in, and whether with every additional party the risk of obtaining ratification would not be increased. Ever since unfounded statement appeared in Madrid papers that I had invited Spain to be an original party, many suggestions with regard to other countries have been carried by the press, of which the most embarrassing was suggestion in Germany with regard to Russia.

On the basis of the foregoing I should like you to consult privately with the Foreign Minister and ascertain his opinion on this subject. Telegraph result.

KELLOGG

711.6212Anti-War/66 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Extract—Paraphrase]

BERLIN, *July 25, 1928—2 p. m.*

[Received 4:28 p. m.]

158. Your 81, July 23, noon.⁶ I have just talked at some length with Schubert. He declared emphatically that Germany would not oppose inclusion of any specific power in addition to those powers which have negotiated the treaty, but he is convinced that to extend choice of signatories beyond present total would lead to other extensions, would give the pact a political cachet, and would arouse discussion and criticism; finally, the risk of obtaining ratification would be greatly increased.

Schubert is for the pact, earnestly and enthusiastically, and says that he is thinking of it and not of German interests. He says that it is logical as it is, and that no one can say anything against it. Any alteration, he fears, would make the treaty the sport of European politics, and he prefers that it should stay as it is, that everybody

⁶ See footnote 5, p. 124.

should join, and that nobody should be offended. He mentioned Russia and repeated a previous statement that no one had asked him to speak for Russia and that he will not appear as an intermediary. He was speaking, he said, only as one who deals with and understands high politics.

Schubert's own view is that it would be a good thing one day to have Russia in the pact; that she is now free and that if she comes into the pact she, too, is bound. . . .

He did not know whether Russia would join or not, but he thought she should, and that it should not be made impossible for her to join.

SCHURMAN

711.0021Anti-War/106

The French Chargé (Sartiges) to the Secretary of State

[Translation]

WASHINGTON, July 26, 1928.

MR. SECRETARY OF STATE: Shortly before his departure on leave Monsieur Claudel told Your Excellency of the great satisfaction it would give the French Government if you should be willing personally to represent the Federal Government at the ceremonies connected with the signature of the anti-war treaty.

Your Excellency agreed in principle to this request, indicating the date of August 27th as being more convenient for you, but reserving at the same time your definitive answer until such time as you should have received the assurance that the Ministers of Foreign Affairs of the principal powers signatory of the treaty were able to go themselves to Paris on the 21st [27th?] of August.

Following the desire thus expressed by Your Excellency, M. Briand has now been assured that Sir Austen Chamberlain, M. Stresemann, M. Hymans, M. Beneš and very probably M. Zaleski will go personally to Paris on the 27th of August. Mr. Mussolini and Baron Tanaka, who were also invited, have expressed their regret that they are unable to go to Paris in person.

In view of these several acceptances, my Government has instructed me to reiterate to Your Excellency the invitation of Monsieur Claudel and to tell you how happy it will be if you will be good enough definitely to agree to go to Paris on the 27th of August.

In the hope of a favorable response, I am [etc.]

SARTIGES

711.5112France/391 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, July 26, 1928—noon.

[Received 4:40 p. m.]

205. Department's No. 226, July 23, noon. Yesterday evening I talked with Briand, whose opinions are as follows:

As a general thing, the French Government feels that the more original signatories there are to the pact the better, but it realizes that this generalization has certain limits. To be more specific, it thinks that inclusion of Spain as one of the original signatories would be a good thing, and Briand said in passing that the same opinion had already been expressed to him by others, notably by Sir Austen Chamberlain. Although the foregoing represents the French Government's own particular point of view, it feels, however, that in view of the course the negotiations have taken and in view of the fact that you have issued the invitation to sign the pact, the question of who shall be included as original signatories to it is one for you to decide. The French Government does not wish to do anything which might either inconvenience or embarrass you or which would complicate matters in the least; it fully recognizes that you are the best judge of what can and what cannot be done in this direction with regard to ratification of the pact by the Senate.

Briand also said that instructions had been sent to Claudel to talk with you in the sense of the foregoing.

In regard to Russia, Briand expressed as his personal opinion that if Russia desired to adhere to the pact at some future time he did not see how that could be prevented. As things are now (one factor being the violent campaign of the Russian press against the pact) Russia's signature at this time would not be [advisable?]. Among other reasons which militate against issuance of invitation to her is likelihood that opportunity would be seized to return an intemperate answer.

Briand stated that he had every reason to believe that, with the exception of Mussolini, every Foreign Minister in Europe would come to Paris to sign the pact. Briand seemed to take for granted that under those conditions the French Government would have the pleasure of receiving you here at end of August; indeed, he said unqualifiedly that you had told Claudel that you would come, under conditions set forth, and that you had spoken of August 25 as date when you would arrive and had suggested August 27 as date for signature of the treaty. It would appear from this that Briand interprets your conversation with Claudel (your telegram No. 221,

July 17) as signifying that, as it is impossible ever to get Mussolini out of Italy, his peculiar case does not enter into conditions which you attached to your consent to come to Paris to sign, as those conditions have been met satisfactorily otherwise.

HERRICK

711.4112Anti-War/158 : Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

[Paraphrase]

LONDON, July 26, 1928—1 p. m.

[Received 2:28 p. m.]

172. Your telegram No. 173, July 23, noon.⁷ This morning Sir Ronald Lindsay⁸ sent for me and gave me Chamberlain's reply in full to inquiry contained in your telegram under reference which I had discussed immediately upon its receipt.

Chamberlain's feeling is that question involved is one primarily for decision between you and Briand, although he himself would welcome inclusion of Spain as one of the original signatories; he does not feel that to include Spain in this way would mean a general extension to other countries.

In my previous discussion at the Foreign Office, the subject of Russia was brought into the conversation. On that Chamberlain feels that as Great Britain has no treaty obligations with Russia he has no opinion either one way or the other in regard to that country's inclusion as subscriber to the pact, but that he would not make the slightest effort to obtain its signature. If any intimation is received in regard to extending invitation to Russia, he felt that decision lies between you and Briand.

ATHERTON

711.6512Anti-War/77 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, July 27, 1928—noon.

[Received 1:47 p. m.]

78. Department's No. 86, July 23, noon.⁷ In the absence from Rome of the Minister for Foreign Affairs, I discussed subject re-

⁷ See footnote 5, p. 124.

⁸ Permanent Under Secretary of State for Foreign Affairs.

ferred to in your telegram with Under Secretary Grandi. The Under Secretary stated that if we asked whether Spain in particular should be invited to become an original signatory, their reply, in view of the friendly relations between Italy and Spain, would be in the affirmative; but that if we asked generally whether the treaty should be opened to inclusion of number of other nations, Italy would doubt expediency of the plan. Grandi said further that if Spain and other nations were included, Italy would very much like to have Hungary one of them.

I have the impression that Government of Italy will be quite satisfied if you carry out your original intention.

I was told yesterday by French Ambassador that he had extended an invitation to Mussolini to come to Paris to sign treaty, but that latter had told him that, as you had already been informed through me, it would be impossible. Grandi told me this morning that he had conveyed to Mussolini my suggestion that Grandi might sign for Italy, but that he had not had time to discuss matter fully with Mussolini before latter's departure from Rome. On Mussolini's return to Rome next week, Grandi will take up subject with him again.

FLETCHER

711.0012Anti-War/104 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, July 30, 1928—11 a. m.

233. I have sent the following note today to the French Chargé d'Affaires:

"In your letter of July 28th [26th], you referred to the conversation which I had with the Ambassador, M. Claudel, shortly before his departure, when he conveyed to me the desire of his Government that I should come to Paris for the signature of the Treaty for the Renunciation of War, a journey which, in view of the great part which France has played in these negotiations, I am most happy to undertake and where, in accordance with your assurances, I shall have the pleasure of signing the treaty with the Foreign Ministers of the countries who have collaborated in this work. As I stated to M. Claudel, I should have been most happy to invite the interested Governments to sign the treaty here in Washington, but I have been glad to yield the place of host to France, both as a tribute to its initiative and out of consideration for the greater convenience it affords to the larger number of signatory states. It gives me great pleasure to assure you that the date of August 27th is altogether agreeable to me and that I shall sail on the 18th of August in order to reach Paris in ample time."

I am sailing on the *Ile de France* on the 18th. Shall be most happy to be your guest in Paris at the time of the signature of the treaty. Mrs. Kellogg will be with me. I do not expect to stay in Paris longer

than a day or two after the signing of the treaty. I then expect to go to England and probably to Ireland for one day, sailing on the *Leviathan* September 4th. Mr. Marriner will sail on the *Aquitania* August 1st; will go to London for a few days and then to Paris where he will be available in connection with arrangements for the signature and program. My Secretary (Beck) will stay with him in Paris.

KELLOGG

711.0012Anti-War/121 : Telegram

*The Secretary of State to the Ambassador in France (Herrick)*¹⁰

WASHINGTON, July 31, 1928—6 p. m.

237. Your 205, July 26, noon. Please inform Foreign Office orally in the following sense, leaving no written memorandum of any kind:

"Many Governments not parties to the original negotiations having manifested a most friendly interest in and sympathy for the multi-lateral treaty for the renunciation of war proposed by the Government of the United States and accepted by the Governments of Australia, Belgium, Canada, Czechoslovakia, France, Germany, Great Britain, India, the Irish Free State, Italy, Japan, New Zealand, Poland and South Africa, careful consideration has been given to the procedure which should be followed in causing the Treaty to be signed and extending its application to Powers not called upon to sign in the first instance.

As is well known, the original suggestion of the United States was that the proposed anti-war treaty be concluded in the first instance by the United States and the British, French, German, Italian and Japanese Governments and it was to those Governments only that the United States submitted its draft treaty of April 13, 1928. The reason for thus limiting the scope of the negotiations has already been explained as, for example, in the paragraph entitled 'Universality' in the note which the United States addressed to the interested Governments on June 23, 1928.

During the negotiations with the British, French, German, Italian and Japanese Governments it appeared desirable for legal reasons to provide for the signature of the treaty in the first instance by certain powers not individually mentioned in the previous correspondence. The British Government pointed out in its note of May 19, 1928, for example, that the proposed treaty from its very nature was not one which concerned His Majesty's Government in Great Britain alone, but was one in which that Government could not undertake to participate otherwise than jointly and simultaneously with the Governments in the Dominions and the Government of India. Provision has, therefore, quite naturally been made for the signature of the treaty by each constituent part of the British Empire individually. The only other Governments for whose signature in the first instance provision has been made are the Governments of Belgium,

¹⁰ See last paragraph for instructions to repeat to Great Britain (No. 176), Italy (No. 90), and Germany (No. 82).

Czechoslovakia and Poland. These Governments were invited to become original signatories because the question had been raised as to whether the proposed multilateral anti-war treaty was in any way inconsistent with the prior obligations of Great Britain, France, Germany and Italy as parties to the Locarno treaties. The United States suggested that if any inconsistency between these treaties were found to exist the matter could be adjusted by including all signatories of the Locarno treaties among the original signatories of the anti-war treaty, since in such event no State could resort to war in violation of the Locarno treaties without simultaneously violating the anti-war treaty thus freeing the other parties to the latter treaty from their obligations thereunder to the treaty-breaking state.

The United States has from the beginning insisted upon a form of treaty which would permit participation therein by all the countries of the world. The restriction of the number of original signatories is purely a matter of procedure calculated to expedite the consummation of the treaty and its coming into force. Governments adhering to the treaty are on exactly the same footing as Governments signing in the first instance. If the treaty is to attain its maximum usefulness it is essential that the world powers not involved in the original negotiations take steps promptly to adhere to the treaty pursuant to its terms and the United States and the other Governments who have agreed upon the present instrument deeply appreciate the sympathetic interest in their efforts which has been shown by so many other powers. In the general interest, however, it seems wiser to follow the procedure already agreed upon and to make no amendment in the text of the treaty so as to provide for signature in the first instance by any Government not heretofore concerned in the negotiations.

The Secretary of State is explaining therefore the situation to the Spanish Ambassador at Washington and informing him orally that it is not feasible to arrange to have Spain included among the original signatories of the Treaty."

Repeat to London as Department's 176, referring to London's 172, July 26, 1 p. m.; to Rome as Department's 90, referring to Rome's 78, July 27, noon; to Berlin as Department's 82, referring to Berlin's 158 July 25, 2 p. m.

KELLOGG

711.5212Anti-War/26 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, August 1, 1928—2 p. m.

51. [Paraphrase.] What follows is for your information, but if some question regarding the subject is raised with you by Spanish Government you may make discreet use of facts set forth below.

On July 23 I telegraphed to our Embassies in France, Germany, Great Britain and Italy as follows: [End paraphrase.]

[Here follows text of Department's telegram No. 226, July 23, noon, to the Ambassador in France, printed in paraphrase on page 124.]

After consideration of the replies to my inquiry I yesterday sent the following telegram to the four Embassies mentioned:

[Here follows text of the Department's telegram No. 237 printed *supra*.]

I also sent yesterday for the Spanish Ambassador and had the entire situation carefully explained to him. Mr. Castle's memorandum of the conversation is as follows:

"I told the Spanish Ambassador that following the Secretary's conversation with him on July 19, 1928, regarding the desire of Spain to be included among the original signatories of the multilateral treaty for the renunciation of war which is to be signed next month, he had informally inquired of the other Governments primarily interested in the negotiation of the treaty whether it would be advisable in their opinion to enlarge the number of original signatories by extending an appropriate invitation to Spain. The Secretary confidentially informed them at the same time that he understood Spain would accept such an invitation if tendered. I told him further the Department has now received replies from all the Governments thus approached and that in no quarter was any objection raised to the suggestion that Spain participate in the treaty at the earliest possible moment. I said the replies indicated, however, that if a special invitation were extended to Spain at the request of the United States some of the Powers heretofore concerned in the negotiation of the treaty would feel disposed formally to request the inclusion of certain other Governments among the original signatories; that furthermore the leak in the Spanish press had led various governments to inquire why it was, if Spain was included, they should not be also. A considerable increase in the number of original signatories, I pointed out, would seriously complicate matters and might even delay unduly the coming into force of the treaty since the treaty by its terms cannot become effective until ratified by all the Powers signing it in the first instance. I said that the Ambassador's assurances as to the position of Spain with respect to the question of ratification were of course sufficient to remove any misgivings on that score so far as Spain was concerned, but that unfortunately there were no comparable assurances with respect to the States whose participation would necessarily follow were Spain to be invited to sign the treaty in the first instance.

I told him that in these circumstances, and particularly since it does not seem possible to find any convincing ground upon which to distinguish the case of Spain from that of other important world powers not called upon to become original signatories of the treaty, we had been regretfully forced to the conclusion that it was not feasible to arrange to have Spain included among the original parties to the treaty. The Spanish Government, I said, might rest assured, however, that no other Government would be given a preferred position

over Spain in the matter and that the treaty would be signed in the first instance only by the fifteen Powers now named in the preamble thereof.

I explained to him again the stipulations of the treaty as to the procedure pursuant to which governments other than those signing in the first instance could become parties thereto and told him that the United States hopes that Spain will take the earliest possible advantage of the provisions of that article and adhere to the treaty without delay as soon as it has come into force, that it would welcome association with Spain in this new movement for the promotion of world peace.

[Paraphrase]

Mr. Padilla, who was very angry, again went over the old ground, but without adding anything new to what he has already said. The effect that the episode will have on him personally is evidently his primary worry. He said that he would cable his Government that other governments had objected to having Spain sign the treaty. I said that he must not do this, as it would not be true. The Secretary of State then joined the conference and answered the Ambassador very clearly along same lines that I had taken, stating that nothing more could be done as the treaty could not be kept waiting by changing all the plans at the last instant, and adding that, as he had already said many times, it had become clear that were Spain to become an original signatory of the treaty, without reason, it would be necessary to ask the world.

I explained once more, in detail, why the fifteen nations and no others were to sign the treaty, and I am convinced that the Ambassador understands even though he gives the appearance of not doing so. He still insists that the Secretary did invite Spain to sign; but, as I pointed out, the records on which he relies for that statement do not bear him out."

Should you find it necessary to discuss this matter with the Spanish Foreign Office, you will please make it perfectly clear that none of the Governments consulted in the present negotiations has objected in any way to Spain's participation as an original signatory and that the difficulty lies in fact that if this Government should have Spain invited to sign in the first instance other Governments would insist upon adding other powers; the result would be, in all probability, the necessity of issuing a general invitation to the entire world and, in consequence, the postponement of the ceremony of signature and inevitable delay in the treaty's coming into force. This is entirely out of the question, of course, and I had no choice, therefore, but to conclude that the general interest demanded strict observance of present program. If the addition of Spain to the fifteen powers now named in the preamble were the only question involved, the situation would be different; but that is not the case. Only two days ago, for example, the Chargé of the Government of the Netherlands called at

the Department to state that his Government had seen rumors that Spain was to be invited to be an original signatory of the treaty, and that if that were so his Government hoped that, as it had for so long been one of the prime movers in all peaceful efforts, it might also be included.

KELLOGG

711.0012Anti-War/147a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, August 3, 1928—5 p. m.

241. Sartiges suggested to Castle a few days ago that it might be possible to have a protocol of adhesion ready for signature by other nations at the time the multilateral treaty is signed by the fifteen nations. Castle explained that I doubted the advisability of this since there might appear an invidious distinction between those signing the treaty and the rest. Sartiges came in again today to say that the French Government recognized the possible difficulties which might arise, and had therefore given up the idea and was preparing simply for the signature of the treaty by the original fifteen. Sartiges also said that Chamberlain had told the French it would be embarrassing for him to meet the Russians. There would have been of course, the same embarrassment for me and I am very glad of the decision made.

The above is for your information.

KELLOGG

711.0012Anti-War/137 : Telegram

The Minister in Portugal (Dearing) to the Secretary of State

LISBON, August 3, 1928—8 p. m.

[Received August 4—10:45 a. m.]

31. The Minister for Foreign Affairs called at the Legation this afternoon and expressed the keenest interest in having Portugal invited to sign the peace pact in Paris the last of this month. He showed me a notice to the effect that Primo de Rivera is expected to go and sign on behalf of Spain and said it would cause a very painful impression in Portugal if Spain were invited to sign while Portugal, an ally, a signatory of all the Paris treaties, the third colonial power of the world, and a country with which we have never had a war but have always been friendly and at peace should merely be left to adhere. He pointed out the extent and important location of the colonies, the

constantly growing market our country is finding in Portuguese dominions and the potential advantage to us of the various colonial possessions, the fact that Portugal is a better market than Czechoslovakia, which is to sign, and so forth. He indicated that the Portuguese Minister at Washington had been instructed to approach the Department of State but said he wished me to know what great importance Portugal attached to the treaty on account of its character and significance and to being associated in the signing of it instead of merely being lending adherence. He declared it would vastly benefit our relations with Portugal, that he felt sure the French would welcome their presence at the signing and that it would give general satisfaction. He said he could think of no quarter in which an invitation to Portugal could cause any hard feeling, referred again to Spain and said he could not see why Spain should be invited to sign in view of her war record while Portugal was left merely to adhere. He also mentioned Rumania's efforts to be included in the signing and said he thought Portugal had the better right.

I told the Minister I was in sympathy with his desire to share in signing the pact to outlaw war and that I would at once report what he had said and recommend that Portugal be included among the nations to sign, although I did not know what criterion the Secretary had adopted in the matter and could not commit the Department in any way.

The record as given by the Minister for Foreign Affairs is true. Moreover, this country is making at present most commendable efforts to reform its administration and provide good government. It has just balanced its budget. An invitation to be present at Paris would be of material assistance and enhance its prestige at home and abroad. With its colonies Portugal is of constantly increasing importance for our trade and of great potential importance for our communications and defense. I think Portugal should be, and I so recommend, included among the nations invited to sign the peace pact and I feel sure such an invitation will greatly aid negotiations for the treaty of conciliation and arbitration and the treaty of friendship and commerce now under discussion (Department's instructions 890 and 898 of March 29 and April 11, respectively).¹¹

If invited Portugal will send to sign for her Dr. Bettencourt Rodrigues, her Minister for Foreign Affairs.

Please instruct me by telegraph.

DEARING

¹¹ No. 890 not printed. For No. 898, see vol. III, p. 774.

711.0012Anti-War/138 : Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

LONDON, August 4, 1928—2 p. m.

[Received August 4—11:20 a. m.]

179. Sir Ronald Lindsay in conversation today referred to the oral message as set forth in your 176, July 31, 6 p. m.,¹² and asked me whether in my opinion this definitely closed the door to Spain's being included among the original signatories to the pact. I said I had no further information than your telegram above referred to. Whereupon he pointed out that there had appeared in the London *Times* a statement from Madrid alleging that Primo de Rivera was proceeding to Paris to sign the Kellogg pact as an original signatory and Lindsay felt for his own part that Spanish pride would be very hurt if this turned out to be untrue coupled with the fact that Spain was basing her reentry into the League of Nations upon certain conditions which he thought would be refused. He added that the Spanish Ambassador had been urging the Foreign Office to take any action possible that Spain might be included as an original signatory. Sir Ronald said he had explained in reply that this matter lay entirely between Paris and Washington. Sir Ronald concluded, as reported in my 172, July 26, 1 p. m., that Sir Austen would personally welcome Spain's inclusion as an original signatory and that he had reason to believe Briand was of this same frame of mind.

ATHERTON

711.0012Anti-War/154 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, August 8, 1928—3 p. m.

247. Before I leave I plan to send a telegram, substantially in form which will be quoted below, to all of our diplomatic missions with the exception of those in the countries signing the anti-war treaty in the first instance. All the correspondence to July 20 has already been mailed in pamphlet form to all missions with the exceptions stated and should be available to most, if not all, of them by time note is delivered. Please mail five copies of pamphlet to Legation at Teheran from supply sent you last week.

Wish you and Marriner to consult French Government confidentially on this program for requesting all countries to adhere to

¹² See footnote 10, p. 130.

treaty; at same time inquire whether French Government would be disposed to notify Russia of signature of treaty and invite her adherence to it. Let me know immediately whether France has any suggestions or objections in regard to this procedure.

Text of proposed telegram reads as follows:¹³

“According to present plans the multilateral anti-war treaty negotiated by the United States will be signed in Paris on August 27, 1928. I will telegraph you through the American Embassy at Paris as soon as the treaty is signed and immediately upon receipt of that telegram you should deliver the following note to the Foreign Office dating it the date of the day of the signature of the treaty. In the meantime you will seek an interview with the Foreign Minister and informally acquaint him with the contents of the note.

“I have the honor to inform you that the Governments of Australia, Belgium, Canada, Czechoslovakia, France, Germany, Great Britain, India, the Irish Free State, Italy, Japan, New Zealand, Poland, South Africa and the United States of America have this day signed in Paris a treaty binding them to renounce war as an instrument of national policy in their relations with one another and to seek only by pacific means the settlement or solution of all disputes which may arise among them.

“This treaty, as Your Excellency is aware, is the outcome of negotiations which commenced on June 20, 1927, when M. Briand, Minister of Foreign Affairs of the French Republic submitted to my Government a draft of a pact of perpetual friendship between France and the United States. In the course of the subsequent negotiations this idea was extended so as to include as original signatories of the anti-war treaty not only France and the United States but also Japan, the British Empire and all the Governments which participated with France and Great Britain in the Locarno agreements, namely Belgium, Czechoslovakia, Germany, Italy and Poland. This procedure met the point raised by the British Government in its note of May 19, 1928, where it stated that the treaty from its very nature was not one which concerned that Government alone, but was one in which that Government could not undertake to participate otherwise than jointly and simultaneously with the Governments in the Dominions and the Government of India; it also settled satisfactorily the question whether there was any inconsistency between the new treaty and the treaties of Locarno.

“The decision to limit the original signatories to the powers named above, that is, to the United States, Japan, the parties to the Locarno treaties, the British Dominions and India, was based entirely upon practical considerations. It was the desire of the United States that the negotiations be successfully concluded at the earliest possible moment and that the treaty become operative without the delay that would inevitably result were prior universal acceptance made a condition precedent to its coming into force. My Government felt, moreover, that

¹³ Text not paraphrased.

if these powers could agree upon a simple renunciation of war as an instrument of national policy there could be no doubt that most, if not all, of the other powers of the world would find the formula equally acceptable and would hasten to lend their unqualified support to so impressive a movement for the perpetuation of peace. The United States has, however, been anxious from the beginning that no State should feel deprived of an opportunity to participate promptly in the new treaty and thus not only align itself formally and solemnly with this new manifestation of the popular demand for world peace but also avail itself of the identical benefits enjoyed by the original signatories. Accordingly in the draft treaty proposed by it the United States made specific provision for participation in the treaty by any and every power desiring to identify itself therewith, and this same provision is found in the definitive instrument signed today in Paris. It will also be observed that the powers signing the treaty have recorded in the preamble their hope that every nation of the world will participate in the treaty and in that connection I am happy to be able to say that my Government has already received from several Governments informal indications that they are prepared to do so at the earliest possible moment. This convincing evidence of the world-wide interest and sympathy which the new treaty has evoked is most gratifying to all the Governments concerned.

“In these circumstances I have the honor formally to communicate to Your Excellency for your consideration and for the approval of your Government, if it concurs therein, the text of the above-mentioned treaty as signed today in Paris, omitting only that part of the preamble which names the several plenipotentiaries. The text is as follows:

(Here follows the text of the treaty).

“The provisions regarding ratification and adherence are, as Your Excellency will observe, found in the third and last article. That article provides that the treaty shall take effect as soon as the ratifications of all the powers named in the preamble shall have been deposited in Washington, and that it shall be open to adherence by all the other powers of the world. Any power desiring to participate in the treaty may thus avail itself of its benefits just as soon as it comes into force since the treaty expressly stipulates that when it has come into force as between the original signatories it shall take effect as between them and an adhering power immediately upon the deposit in Washington of the latter's instrument of adherence. In this manner it is hoped the beneficent influence of the new treaty may rapidly spread throughout the world.

“I shall shortly transmit for Your Excellency's convenient reference a printed pamphlet containing the text in translation of M. Briand's original proposal to my Government of June 20, 1927, and the complete record of the subsequent diplomatic correspondence on the subject of a multilateral treaty for the renunciation of war. I shall also transmit, as soon as received from my Government, a certified copy of the signed treaty.

“In view of the fact that the treaty provides that instruments evidencing adherence are to be deposited at Washington, I have been instructed to state in conclusion that the Government of the United States would appreciate receiving Your Excellency’s assurance that the multilateral treaty for the renunciation of war signed today in Paris is acceptable to your Government, and that an appropriate instrument of adherence thereto will in due course be deposited in Washington.”

“When delivering the foregoing note please state that an identic note, *mutatis mutandis*, is being delivered simultaneously in the other world capitals and that pursuant to the procedure which has been followed throughout the present negotiations the text thereof is being promptly released for publication. It will be given out in Washington for publication in the morning papers of Wednesday, August 29, and you should arrange for publication in the local press at the corresponding time.

“If when you deliver this note you have already received a supply of the pamphlet containing the Briand proposal and the correspondence ending with the Japanese note of July 20, 1928, please make a copy immediately available to the Foreign Office. Otherwise transmit a copy as soon as received from the Department.”

KELLOGG

711.5312Anti-War/3 : Telegram

The Secretary of State to the Minister in Portugal (Dearing)

WASHINGTON, August 9, 1928—3 p. m.

21. Your 31, August 3, 8 p. m. I fully understand the strong reasons which you advance for the inclusion of Portugal as an original signatory to the treaty for the renunciation of war as an instrument of national policy and I have given this matter deep and sympathetic consideration.

[For the text of the four paragraphs here omitted, see the first four paragraphs of the memorandum quoted in the Department’s telegram No. 237, July 31, 6 p. m., to the Ambassador in France, printed on page 130.]

You can readily understand in view of the foregoing and in view of the fact that it would be out of the question to invite Portugal to be an original signatory without inviting a large number of other powers at the same time, thus delaying signature, ratification and coming into force of the treaty for a long period, that in spite of my anxiety to associate Portugal with the United States in this pact as soon as possible, I am not able to accede to the suggestion contained in your telegram.

Please take this matter up orally with the Minister of Foreign Affairs and explain these circumstances.

KELLOGG

711.0012Anti-War/173 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, August 10, 1928—4 p. m.

[Received 11:55 p. m.]

225. Your 247, August 8, 3 p. m. I telephoned Marriner yesterday but as he will not be here until Saturday I took the matter up with the Foreign Office at once. I am told that, upon first consideration of the question, Briand, desirous of meeting our wishes, is disposed in principle to notify Russia of signature of the treaty and to invite her adherence to it. This point must be examined most carefully, however, in order to eliminate any possibility that such invitation will be met either by a refusal or an objectionable answer. Foreign Office has not yet offered any suggestions or objections with reference to remainder of the program.

Briand will go into whole question more thoroughly this afternoon, and tomorrow morning I expect to receive a more definite reply.¹⁴ Some uncertainty was evinced this morning at the Foreign Office over the exact machinery whereby the immediate adherence of other powers besides the original signatories may be effected. A possible legalistic view might be that a power cannot take the necessary legal action which constitutes adherence until after there is a pact in force—as there would be after the deposit of ratifications by all the original signatories—susceptible of being adhered to.

On other hand it seems that a Government might take legal action which constitutes adherence conditionally, this condition being fulfilled the moment the treaty comes into force. For instance, after the signature of the treaty but without waiting for it to come into force a Government might ask from its Parliament and obtain consent to enactment of an instrument of adherence which could be deposited in Washington the day that the treaty comes into force. Latter conception would better serve, it seems, the underlying idea of spreading rapidly the beneficent influence of the treaty throughout the world, and I gather that it would fit in with views of French Government. The raising of any difficulty on this point was in no way implied by the discussion; there was only the desire to have an identity of understanding.

HERRICK

¹⁴ On August 11 the Ambassador informed the Department that the Foreign Office would study the question over the week end (file No. 711.0012 Anti-War/172).

711.5212Anti-War/37 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

[Paraphrase]

SAN SEBASTIAN, August 13, 1928—10 a. m.

[Received August 14—1:40 a. m.]

76. I saw Primo de Rivera on August 9 and explained discreetly point of view outlined in your telegram No. 51, August 1, 2 p. m. . . . At the conclusion of the interview the Minister said that he "was resigned but not convinced", and that he would give me a memorandum the next day (August 10) which would place Spain's position in the matter on record. Translation of memorandum follows:¹⁵

"Mr. Ambassador: I am anxious to make a brief and precise reply to Your Excellency's conversation last night which was in the nature of a reply from Mr. Kellogg, Secretary of State of the United States, to the negotiations undertaken with a view to including Spain among the signatories of the proposed pact to outlaw war. I must nevertheless preface my reply with the expression of my sincerest gratitude for the high proof of consideration for Spain and of affection for me which is manifested by your having undertaken a journey of more than one thousand kilometers, leaving Mrs. Hammond ill at San Sebastian, in order to give me a personal account of the negotiations regarding this matter.

A knowledge of the truth of the situation and the decorum of the country which I govern prevent me from insisting in my request which would not have arisen except for the error or misunderstanding of our Ambassador in Washington that the Government of the United States would look with favor upon and therefore initiated this distinction for Spain which would thus be admitted to the concert of the great powers as is only fitting on account of its glorious past and its present position of cultural prestige and peaceful intentions.

I must immediately report that I have desisted in my request to the Governments at Paris and London which, faithful to the friendship which binds them to the Madrid Government, had supported this aspiration of ours.

But permit me, Mr. Ambassador, without in any way insisting in the matter, to point out to you that neither the indiscretion attributed to the use of [the] press, which merely published an incidental and episodic report regarding a matter upon which the whole world was commenting, nor that of the resulting attempt on the part of other countries to be included with the great powers as an original signatory in case Spain were, have any foundation since Spain's situation is unique in the world and it is a great and notorious injustice which in no way profits the concert of the great powers to exclude Spain, forgetting its services to humanity, its verbal [*sic*] and spiritual fertility to which so many and so great peoples owe their civilization and culture and which they consider and love as a mother.

¹⁵ Quotation not paraphrased.

Whether it is this or another occasion, and none better could have been seized than the present, Spain's place among the nations will one day have to be determined, for it cannot be alone in its group and it is much more unjust to attempt to classify it as a second-class power than to include it among the great powers. For even the happy circumstance of its neutrality during the last war reserves to it a role among them which no other nation can play.

No nation could better take the initiative in this matter than the United States, which, for the very reason that they were our last adversaries and appreciated our bravery and loyalty in the war on land and sea, worthy of their own and of the nobility with which, forgetful of bitterness, we rapidly reestablished political and commercial relations which are today of such great cordiality and importance, should be the nation to propose to the powers of its own rank and prestige that Spain in this advance towards peace represented by Mr. Kellogg's proposal and in every act that signifies collective and international action among themselves, be considered as one of the group of great nations, with the assurance that Spain will be able to discharge the obligations laid upon it and be, as always, worthy of its glorious name."

HAMMOND

711.0012Anti-War/184 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, August 13, 1928—6 p. m.

[Received 7 p. m.]

230. [Paraphrase.] As Briand was absent today I saw his Chef de Cabinet, who said that there would be no difficulty in notification of Russia by French Government of signature of the treaty and in stating, in effect, that, as the Government of the United States was the depositary of the instruments of ratification of adherence and for that reason is inviting the nations of the world to adhere to this treaty but is unable to do so in the case of Russia because of the absence of diplomatic relations, the Government of France is extending this invitation to Russia.

I remarked that this statement went beyond the precise proposal contained in your No. 247, August 8, 3 p. m., second paragraph, and that according to my understanding the remainder of your program might depend upon the ability of French Government to carry out your suggestion without modification. I told the Chef de Cabinet that I would report his statement to my Government, asking him at the same time to put into exact terms the formula which Government of France proposes to adopt in approaching Soviet Government. [End paraphrase.]

I emphasized that your early departure necessitated a definite answer upon the whole question of adherence procedure at the earliest

possible moment and as Wednesday, August 15, is one of the principal religious holidays which usually carries over at least two days, I urged that the Chef de Cabinet obtain this answer tomorrow. This he engaged to endeavor to do.

HERRICK

711.0012Anti-War/197 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, August 14, 1928—10 a. m.

258. Your 230, August 13, 6 p. m. I do not desire to pass upon form of French Government's notification to Russia that treaty has been signed and that Soviet regime may adhere to it, as that is a matter which should be left to the Foreign Office's wise discretion and does not in the least concern this Government. Please inform Foreign Office that I am happy to learn that France will approach Russia in this matter and that I am very glad to entrust the form and substance of the communication to their good judgment.

The question of notifying Russia has no connection with the procedure I desire to follow with respect to all other countries (refer to my telegram No. 247, August 8, 3 p. m.). I assume from your telegrams that that procedure is entirely agreeable to France, but I should be glad to have an explicit assurance on that point immediately so that the circular telegram to the proper diplomatic missions may be despatched without any more delay. Questions continue to arise about participation by other powers, and if our missions could all be informed promptly of situation, they would be able to deal with matter and not have to telegraph individual inquiries to the Department. I deem it very important that the other countries of the world should know that as soon as the treaty is signed they will have presented to them a formal communication asking them if they desire to participate in the treaty by adherence.

KELLOGG

711.0012Anti-War/200 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, August 14, 1928—5 p. m.

261. Your 225, August 10, 4 p. m. I quite agree that it would be entirely proper and desirable for Governments to adhere to the treaty even before it comes into force through ratification by the original signatories. In order to clear up any question on this point

I have revised as follows the draft note quoted in my 247, August 8, 3 p. m.:

The paragraph immediately following the treaty text has been rewritten to read:

"The provisions regarding ratification and adherence are, as Your Excellency will observe, found in the third and last article. That article provides that the treaty shall take effect as soon as the ratifications of all the powers named in the preamble shall have been deposited in Washington, and that it shall be open to adherence by all the other powers of the world, instruments evidencing such adherence to be deposited in Washington also. Any power desiring to participate in the treaty may thus exercise the right to adhere thereto and my Government will be happy to receive at any time appropriate notices of adherence from those Governments wishing to contribute to the success of this new movement for world peace by bringing their peoples within its beneficent scope. It will be noted in this connection that the treaty expressly provides that when it has once come into force it shall take effect immediately between an adhering power and the other parties thereto, and it is therefore clear that any Government adhering promptly will fully share in the benefits of the treaty at the very moment it comes into effect."

The next paragraph is unchanged.

The last paragraph of the draft note is omitted entirely.¹⁶

KELLOGG

711.0012Anti-War/195 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, August 14, 1928—6 p. m.

[Received August 14—6 p. m.]

233. My 230, August 13, 6 p. m.

[Paraphrase.] 1. French Foreign Office has just handed me draft of proposed instructions to French Ambassador at Moscow, which in substance is as follows: [End paraphrase.]

After summarizing the telegram which you proposed to send to all our diplomatic missions except those in the countries of original signatories, as set forth in your 247, August 8, 3 p. m., the instruction recites that as according to the terms of the treaty the Government of the United States is the depositary of instruments of ratification and adherence, its representatives have been instructed to communicate on this day to the Governments to which they are accredited an identic note the purport of which has just been summarized. The draft instruction then concludes as follows:

¹⁶ On August 16 the Ambassador informed the Department that the alteration in the draft note was acceptable to the French Government (file No. 711.0012 Anti-War/214).

"It being impossible to make this communication at Moscow through the same medium by reason of the nonexistence of diplomatic relations between the Government of the United States and the Government of the Soviets, the Government of the Republic has agreed to insure its transmission through the good offices of its Ambassador in Russia. Will you, therefore, in informing the Government of the Soviets of the contents of this telegram, communicate to it the text of the treaty signed today in Paris and ask it to notify you if it is disposed to adhere thereto."

[Paraphrase.] As we wished to run no chance of embarrassment by an attempt of the Soviet Government to send its instrument of adherence direct to our Government, we made suggestion that last sentence quoted above be modified as follows [End paraphrase.]:

"Will you, therefore, in informing the Government of the Soviets of the contents of this telegram communicating to it the text of the treaty signed today in Paris, ask it to notify you if it is disposed to adhere thereto and in that case inform it that you are authorized to receive its instrument of adherence in order to transmit it to Washington."

Although Briand is still out of town his Chief of Cabinet said that he felt entirely justified in acceding to our suggested amendment and was confident that Briand would endorse his action.

The above instruction is to be acted upon on the day [of the] signature of the pact.

[Paraphrase.] 2. In course of discussion the fact that we are also without diplomatic representatives in Afghanistan, whereas there is a French Minister there, was brought up. I gained impression that, were we to make request, the French would be entirely willing to perform same service with regard to Afghanistan as with Russia, and that they might indeed be inclined to regard such procedure with favor as tending to remove Russia's case from realm of isolation.

We should like to know if there are any other countries where similar procedure might be given consideration. [End paraphrase.]

3. With respect to your proposed telegram to our diplomatic missions as set forth in your 247, August 8, 3 p. m., the French request the addition of the following clause to the sentence ending "it also settles satisfactorily the question whether there was any inconsistency between the new treaty and the treaties of Locarno"; for the period after "Locarno" substitute a comma and continue as follows: "thus responding to the general observations of the French Government as to the necessity of extending the number of original signatories sufficiently to ensure the reconciliation of their new oaths with the international undertakings previously concluded by them."

HERRICK

711.0012Anti-War/201 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, August 15, 1928—3 p. m.

[Received August 15—12:03 p. m.¹⁷]

236. My 233, August 14, 6 p. m., contains explicit assurance requested by your 258, August 14, 10 a. m., assuming that you have no objection to the requested French addition transmitted in my telegram.

However, immediately upon receipt of your 261, August 14, 5 p. m., I telephoned M. Corbin, the only responsible official on duty at the Foreign Office on this holiday. The first reaction apparently was that it is not clear in what manner "notices of adherence" prior to the coming into force of the pact could be transferred into legally valid instruments of adherence on the day the pact comes into effect. In other words although M. Corbin was informed that in your opinion "it would be entirely proper and desirable for governments to adhere to the treaty even before it comes into force" he still does not see how such adherence can be effected other than in a conditional manner by means of an instrument containing a specific provision for the accrual of a condition subsequent (see my 225, August 10, 4 p. m.).

M. Corbin said that this matter was of great importance and one on which the French would have to act with the utmost prudence (I gather he meant in answering the inquiries of continental powers as to exactly what they can and could do) and that it was therefore essential to know exactly what our Government had in mind with respect to the type of instrument by which this adherence could be effected. He was leaving his office for the day within a few minutes, and requested that the changes of text in your proposed telegram be shown to him tomorrow morning.

Since the French Government had not objected to the wording as originally set forth in your 247, August 8, 3 p. m., and merely raised this question for clarification between our two Governments, it might be more expeditious to send your telegram with the desired French addition to various missions in the form originally proposed, meanwhile continuing the efforts at clarification here on the point mentioned above.

HERRICK

¹⁷ Telegram in two sections.

711.0012Anti-War/216 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, August 15, 1928—4 p. m.

266. Your 236, August 15, 3 p. m. I have no doubt that any country may adhere any time to the treaty and that such adherence would come into effect with the treaty. I had supposed that this was also the opinion of the French Government. See your 225, August 10, 4 p. m. The object in taking this procedure is to expedite as much as possible the adherence by other powers and it seems clear that such adherence would be more likely to occur at a time when all the world is talking about the treaty. Obviously the instrument of adherence can provide that it become effective as soon as the treaty itself comes into effect.

KELLOGG

711.0012Anti-War/211 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

ROME, August 16, 1928—10 a. m.

[Received August 16—5:44 a. m.]

82. My telegram No. 81, August 4, 1 p. m.¹⁸ Foreign Office informs me that Grandi finds it will be impossible for him to go to Paris August 27th.

Italian Ambassador at Paris will sign.

FLETCHER

711.0012Anti-War/231 : Telegram

The Secretary of State to the Ambassador in Italy (Fletcher)

[Paraphrase]

WASHINGTON, August 16, 1928—10 a. m.

94. Embassy's No. 82, August 16, 10 a. m. Attitude of Italian Government astonishes and disappoints me, and will make most unfortunate impression here. On an occasion when all other European countries are sending their Ministers of Foreign Affairs, when the Prime Minister of Canada is going, when Japan is sending a special ambassador and the President of the Irish Free State is going to Paris, the fact that the Italian Ambassador in Paris will be Italy's only representative will certainly be regarded as intended to minimize importance of treaty. You will, I hope, make this clear to Foreign Office, and I also hope that Grandi's presence may still be possible.

KELLOGG

¹⁸ Not printed.

711.0012Anti-War/243 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

[Paraphrase]

WASHINGTON, August 16, 1928—1 p. m.

53. Your No. 76, August 13, 10 a. m. I have read the Prime Minister's memorandum replying to your oral explanations of reasons why signatures to treaty are limited to the original powers. You will please communicate to the Prime Minister very sincere regret I feel that any misunderstanding has occurred.

Either in writing or orally you may state, further, that never has there been the slightest implication that Spain occupies an inferior rank among the powers. There is not the least intent on my part to intimate that Spain is not wholeheartedly for world peace or to minimize her influence in world councils. The negotiations were limited to a few powers, as you undoubtedly explained, in order to have signed within a reasonable time a treaty which could be the basis of a treaty between all nations of the world. To enter into negotiations with all the countries of the world with any hope of obtaining within a reasonable time a basis for a multilateral treaty renouncing war would be an impossibility. I did suggest, in the first instance, it is true, the six original powers. The only others added were the constituent parts of the British Empire and the additional powers signatories of the Locarno treaties. The explanation for those inclusions has already been given. I could not enlarge the number of original signatories except in consultation with the other powers; it soon developed that, although they had no objection whatever to Spain's becoming an original signatory, there would have to follow a very general extension to other powers and, as a result, the renewal of negotiations with practically every power in the world. The signature of the treaty would thereby have been indefinitely postponed. I could not insist, therefore, to the other signatories that the program be changed at this late date and an invitation be extended to all the other powers of the world. I am conscious of the abiding sentiment of the Government of Spain and of the Spanish people in favor of peace and of their desire to further any movement which aims at peace. I am also most anxious to express the sentiments of sympathy and of deep regard which both the American Government and the people of this country have for the Spanish Government and the Spanish people. I hope that Spain will be one of the first countries to adhere to the treaty, in this way obtaining for that great nation the same rights, and placing her in same position as any other signatory.

KELLOGG

711.0012Anti-War/239 : Circular telegram

*The Secretary of State to American Diplomatic Representatives*¹⁹

WASHINGTON, August 16, 1928—11 p. m.

According to present plans the multilateral anti-war treaty negotiated by the United States will be signed in Paris on August 27, 1928. I will telegraph you through the American Embassy at Paris as soon as the treaty is signed and immediately upon receipt of that telegram you should deliver the following note to the Foreign Office dating it the date of the day of the signature of the treaty. In the meantime you will seek an interview with the Foreign Minister and informally acquaint him with the contents of the note.

[The first four paragraphs of the note and the text of treaty which it contains have been omitted. For the text of the omitted paragraphs, see the first four paragraphs of the note quoted in the Department's telegram No. 247, August 8, 3 p. m., to the Ambassador in France, printed on page 136.]

"The provisions regarding ratification and adherence are, as Your Excellency will observe, found in the third and last article. That article provides that the treaty shall take effect as soon as the ratifications of all the powers named in the preamble shall have been deposited in Washington, and that it shall be open to adherence by all the other powers of the world, instruments evidencing such adherence to be deposited in Washington also. Any power desiring to participate in the treaty may thus exercise the right to adhere thereto and my Government will be happy to receive at any time appropriate notices of adherence from those Governments wishing to contribute to the success of this new movement for world peace by bringing their peoples within its beneficent scope. It will be noted in this connection that the treaty expressly provides that when it has once come into force it shall take effect immediately between an adhering power and the other parties thereto, and it is therefore clear that any Government adhering promptly will fully share in the benefits of the treaty at the very moment it comes into effect.

"I shall shortly transmit for Your Excellency's convenient reference a printed pamphlet containing the text in translation of M. Briand's original proposal to my Government of June 20, 1927, and the complete record of the subsequent diplomatic correspondence on the subject of a multilateral treaty for the renunciation of war. I shall also transmit, as soon as received from my Government, a certified copy of the signed treaty."

When delivering the foregoing note please state that an identic note, *mutatis mutandis*, is being delivered simultaneously in the

¹⁹ In Albania, Argentina, Austria, Bolivia, Brazil, Bulgaria, Chile, China, Colombia, Costa Rica, Cuba, Denmark (including the Government of Iceland), Dominican Republic, Ecuador, Egypt, Estonia, Ethiopia, Finland, Greece, Guatemala, Haiti, Honduras, Latvia, Liberia, Lithuania, Luxemburg, Mexico, Netherlands, Nicaragua, Norway, Panama, Paraguay, Persia, Peru, Poland (to invite the adherence of the Free City of Danzig), Portugal, Rumania, Kingdom of the Serbs, Croats and Slovenes, Siam, Spain, Sweden, Switzerland, Turkey, Uruguay, and Venezuela.

other world capitals and that pursuant to the procedure which has been followed throughout the present negotiations the text thereof is being promptly released for publication. It will be given out in Washington for publication in the morning papers of Wednesday, August 29, and you should arrange for publication in the local press at the corresponding time.

If when you deliver this note you have already received a supply of the pamphlet containing the Briand proposal and the correspondence ending with the Japanese note of July 20, 1928, please make a copy immediately available to the Foreign Office. Otherwise transmit a copy as soon as received from the Department.

KELLOGG

711.0012Anti-War/267 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, August 16, 1928—midnight.

272. Your 233, August 14, 6 p. m., and Department's circular telegram, August 16, 11 p. m.

Please arrange with the Minister of Afghanistan at Paris to deliver to him on the day of original signature for transmission to his Government the note contained in my circular telegram August 16, 11 p. m. You may inform him of its contents informally before that date. You may intimate orally to the French that while we are following this procedure rather than the one they suggested in view of the fact that we have recognized Afghanistan, we would perceive no objection if they were to instruct their Minister at Kabul to inform the Government of Afghanistan of the action you are taking in this matter and of the substance of the note.

[Paraphrase.] I believe that it would be desirable to have the French take that step in order to make sure that the Government of Afghanistan will understand that it is being invited to adhere at the same time and in the same way as are other countries. [End paraphrase.]

KELLOGG

711.0012Anti-War/279 : Telegram

The Acting Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, August 17, 1928—1 p. m.

277. Reference to Department's circular telegram of August 16, 11 p. m. Before you transmit note and instructions to the American

Diplomatic Agent at Tangier, with respect to Morocco, I wish that as a matter of courtesy, you would advise informally French Foreign Office of this Government's intention to invite Morocco to adhere.

Department feels strongly that Shereefian Government should be included in invitations to adhere to treaty for following reasons: (1) Terms of treaty itself in article 3, paragraph 2; (2) the repeated statements which have roused expectation that treaty will be world-wide; (3) our own direct relations with Morocco, so that not to extend invitation would appear to single out Shereefian Government for discrimination. The failure to invite Morocco, furthermore, might create an undesirable precedent.

CASTLE

711.0012Anti-War/244 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

SAN SEBASTIAN, August 17, 1928— $\frac{1}{4}$ p. m.

[Received 4:02 p. m.]

77. Your telegram August 16, 1 p. m. After the Council of Ministers held at Corunna on August 14, General Primo de Rivera gave the following communication to the press with regard to Spain's position relative to the anti-war pact:

"The Kellogg pact has been communicated to Spain and its signature or collaboration has been requested. Spain will give its approval or will communicate such reservations as it may deem expedient but it is a significant proof of the consideration in which Spain is held. The Ambassador of the United States himself, making a journey of 900 kilometers from San Sebastian to Mondariz, came to see me to inform me of the negotiations of this international matter and to give an account of the details thereof. This fact is a proof of consideration for Spain and I have personally expressed my gratitude to Mr. Hammond for his coming to Mondariz leaving his wife ill at San Sebastian."

[Paraphrase.] From the foregoing the Department will perceive that Primo de Rivera has not only accepted situation in regard to nonparticipation of Spain as one of the original signatories of the treaty for the renunciation of war but has also been able to find in my visit to Mondariz a matter for national self-congratulation and a continued proof of the esteem which Spain enjoys abroad.

I do not consider it advisable, therefore, to take matter up again with the Prime Minister until after his arrival in San Sebastian on the 25th of this month. At that time I shall talk to him along lines of your telegram and shall urge Spain's prompt adherence to the treaty. [End paraphrase.]

HAMMOND

711.0012Anti-War/260 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, August 18, 1928—4 p. m.

[Received August 18—2:05 p. m.]

248. Department's No. 277, August 17, 1 p. m. As instructed, I immediately informed French Foreign Office. Latter expressed real consternation and most earnest hope that we would not follow course outlined.

Léger²⁰ said he felt sure Briand could never give his consent to this step, which would necessarily create gravest difficulties for France. Reference was made to French protectorate established March 30, 1912, by treaty which conferred upon France Morocco's diplomatic representation, and Foreign Office also referred to drafting and signature of Versailles treaty and treaty of St. Germain, at which, although specific articles refer to Morocco, the Shereefian Government was not represented.

The seriousness with which Foreign Office appears to regard this new development cannot be overemphasized.

HERRICK

711.0012Anti-War/281 : Telegram

The Acting Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, August 18, 1928—4 p. m.

283. Your No. 248, August 18, 4 p. m. Department thought that France would not have any objection to Morocco's adherence, but instead would welcome it. As it appears that objection does exist, the Department does not at this time desire to push matter further. You may so inform the Foreign Office.

CASTLE

711.0012Anti-War/264 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

ROME, August 20, 1928—10 a. m.

[Received August 20—9:12 a. m.]

85. My telegram No. 84, August 17, 1 p. m.²¹ I have just received a personal communication from the Prime Minister the pertinent portion of which I repeat from translation as follows:

²⁰ M. Alexis Léger, Assistant Director of Political and Commercial Affairs and Chief of Cabinet, French Ministry of Foreign Affairs.

²¹ Not printed; see telegram No. 82, Aug. 16, 10 a. m., from the Ambassador in Italy, and No. 94, Aug. 16, 10 a. m., to the Ambassador in Italy, p. 147.

"In view of the numerous engagements which will keep me occupied during the coming week it will not be possible for Under Secretary Grandi, to absent himself at this moment from the Ministry. I am therefore unable to comply, as I would have wished, with the courteous and gratifying desire expressed to me by Your Excellency. I have, however, charged Count Gaetano Manzoni, Royal Ambassador at Paris, who has for this purpose been given full Royal powers, to sign the Kellogg Pact in the name of Italy. I have today formally advised the French Government of this designation."

FLETCHER

711.0012Anti-War/339 : Telegram

President Coolidge to President Doumergue

WASHINGTON, August 26, 1928.

It gives me great pleasure and satisfaction to extend to you and through you to the representatives of the nations assembled in Paris my cordial congratulations on the successful outcome of the negotiations inaugurated by France and the United States for a treaty renouncing war as an instrument of national policy and pledging the signatories to seek only by peaceful means the settlement of differences which may arise between them.

The treaty to be signed in Paris had its inception in the proposal submitted last year by the Government of France to the Government of the United States. The idea of Monsieur Briand has been made world wide. I am confident that the simple provisions of this treaty will be accepted by all nations because I am sure there is everywhere a will for peace. It is a great forward step in the preservation of peaceful relations between the nations and therefore will, I know, prove to be a historic document in the history of civilization. It has been a privilege to the United States to contribute to the success of this movement, a satisfaction to have been associated with France and other peace loving nations in thus writing into international law one of the deepest aspirations of the human conscience.

CALVIN COOLIDGE

Treaty Series No. 796

*Treaty Between the United States and Other Powers, Signed at Paris, August 27, 1928*²²

THE PRESIDENT OF THE GERMAN REICH, THE PRESIDENT OF THE UNITED STATES OF AMERICA, HIS MAJESTY THE KING OF THE BELGIANS,

²²In English and French; French text not printed. Ratification advised by the Senate, Jan. 15 (legislative day of Jan. 14), 1929; ratified by the President, Jan. 17, 1929; instruments of ratification deposited at Washington, Mar. 2, 1929, by the United States of America, Australia, Dominion of Canada, Czechoslovakia, Germany, Great Britain, India, Irish Free State, Italy, New Zealand, and Union of South Africa, Mar. 25 by Poland, Mar. 27 by Belgium, Apr. 22 by France, July 24 by Japan; proclaimed by the President, July 24, 1929.

THE PRESIDENT OF THE FRENCH REPUBLIC, HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, HIS MAJESTY THE KING OF ITALY, HIS MAJESTY THE EMPEROR OF JAPAN, THE PRESIDENT OF THE REPUBLIC OF POLAND, THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC,

Deeply sensible of their solemn duty to promote the welfare of mankind;

Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory Power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this Treaty;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavor and by adhering to the present Treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilized nations of the world in a common renunciation of war as an instrument of their national policy;

Have decided to conclude a Treaty and for that purpose have appointed as their respective Plenipotentiaries:

The President of the German Reich:

Dr. Gustav Stresemann, Minister for Foreign Affairs;

The President of the United States of America:

The Honorable Frank B. Kellogg, Secretary of State;

His Majesty the King of the Belgians:

Mr. Paul Hymans, Minister for Foreign Affairs, Minister of State;

The President of the French Republic:

Mr. Aristide Briand, Minister for Foreign Affairs;

His Majesty the King of Great Britain, Ireland and the British Dominions Beyond the Seas, Emperor of India:

For Great Britain and Northern Ireland and all parts of the British Empire which are not separate Members of the League of Nations:

The Right Honourable Lord Cushendun, Chancellor of the Duchy of Lancaster, Acting Secretary of State for Foreign Affairs;

For the Dominion of Canada:

The Right Honourable William Lyon Mackenzie King, Prime Minister and Minister for External Affairs;

For the Commonwealth of Australia:

The Honourable Alexander John McLachlan, Member of the Executive Federal Council;

For the Dominion of New Zealand:

The Honourable Sir Christopher James Parr, High Commissioner for New Zealand in Great Britain;

For the Union of South Africa:

The Honourable Jacobus Stephanus Smit, High Commissioner for the Union of South Africa in Great Britain;

For the Irish Free State:

Mr. William Thomas Cosgrave, President of the Executive Council;

For India:

The Right Honourable Lord Cushendun, Chancellor of the Duchy of Lancaster, Acting Secretary of State for Foreign Affairs;

His Majesty the King of Italy:

Count Gaetano Manzoni, his Ambassador Extraordinary and Plenipotentiary at Paris.

His Majesty the Emperor of Japan:

Count Uchida, Privy Councillor;

The President of the Republic of Poland:

Mr. A. Zaleski, Minister for Foreign Affairs;

The President of the Czechoslovak Republic:

Dr. Eduard Benes, Minister for Foreign Affairs;

who, having communicated to one another their full powers found in good and due form have agreed upon the following articles:

ARTICLE I

The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

ARTICLE II

The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

ARTICLE III

The present Treaty shall be ratified by the High Contracting Parties named in the Preamble in accordance with their respective constitu-

tional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at Washington.

This Treaty shall, when it has come into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other Powers of the world. Every instrument evidencing the adherence of a Power shall be deposited at Washington and the Treaty shall immediately upon such deposit become effective as between the Power thus adhering and the other Powers parties hereto.

It shall be the duty of the Government of the United States to furnish each Government named in the Preamble and every Government subsequently adhering to this Treaty with a certified copy of the Treaty and of every instrument of ratification or adherence. It shall also be the duty of the Government of the United States telegraphically to notify such Governments immediately upon the deposit with it of each instrument of ratification or adherence.

IN FAITH WHEREOF the respective Plenipotentiaries have signed this Treaty in the French and English languages both texts having equal force, and hereunto affix their seals.

DONE at Paris, the twenty-seventh day of August in the year one thousand nine hundred and twenty-eight.

[SEAL]	GUSTAV STRESEMANN
[SEAL]	FRANK B. KELLOGG
[SEAL]	PAUL HYMANS
[SEAL]	ARI. BRIAND
[SEAL]	CUSHENDUN
[SEAL]	W. L. MACKENZIE KING
[SEAL]	A. J. McLACHLAN
[SEAL]	C. J. PARR
[SEAL]	J. S. SMIT
[SEAL]	LIAM T. MACCOSGAIR
[SEAL]	CUSHENDUN
[SEAL]	G. MANZONI
[SEAL]	UCHIDA
[SEAL]	AUGUST ZALESKI
[SEAL]	DR. EDUARD BENES

[The treaty also went into effect on July 24, 1929, for the following States whose duly ratified instruments of adherence had already been deposited at the Department of State:

Afghanistan (November 30, 1928)	Lithuania (April 5, 1929)
Albania (February 12, 1929)	Netherlands (July 12, 1929)
Austria (December 31, 1928)	Nicaragua (May 13, 1929)
Bulgaria (July 22, 1929)	Norway (March 26, 1929)
China (May 8, 1929)	Panama (February 25, 1929)
Cuba (March 13, 1929)	Peru (July 23, 1929)
Denmark (March 23, 1929)	Portugal (March 1, 1929)
Dominican Republic (December 12, 1928)	Rumania (March 21, 1929)
Egypt (May 9, 1929)	Serbs, Croats and Slovenes, Kingdom of the, (February 20, 1929)
Estonia (April 26, 1929)	Siam (January 16, 1929)
Ethiopia (November 28, 1928)	Spain (March 7, 1929)
Finland (July 24, 1929)	Sweden (April 12, 1929)
Guatemala (July 16, 1929)	Turkey (July 8, 1929)
Hungary (July 22, 1929)	Union of Soviet Socialist Republics (September 27, 1928)
Iceland (June 10, 1929)	
Latvia (July 23, 1929)	
Liberia (February 23, 1929)	

The treaty went into effect for the following States upon date of deposit at the Department of State of duly ratified instruments of adherence:

Brazil, May 10, 1934	Honduras, August 5, 1929
Chile, August 12, 1929	Iraq, March 23, 1932 (invitation to adhere issued after recognition of the Iraqi Government in 1931)
Colombia, May 28, 1931	Luxemburg, August 24, 1929
Costa Rica, October 1, 1929	Mexico, November 26, 1929
Danzig, Free City of, September 11, 1929 (transmitted by the Polish Government on behalf of Danzig)	Paraguay, December 4, 1929
Ecuador, February 24, 1932	Persia, July 25, 1929
Greece, August 3, 1929	Switzerland, December 2, 1929
Haiti, March 10, 1930	Venezuela, October 24, 1929
Hedjaz and Nejd, Kingdom of the, February 24, 1932 (invitation to adhere issued after recognition of the Hejazi Government in 1931)	

Instruments of adherence were not deposited by the following States: Argentina, Bolivia, El Salvador, and Uruguay.]

711.0012Anti-War/346 : Telegram

President Doumergue to President Coolidge

[Translation]

PARIS, August 27, 1928—2:02 p. m.²³

I very sincerely thank Your Excellency for your kindly sending me, and through me the representatives of the nations assembled in

²³ Received in the Department Aug. 27, 1928; hour of receipt unknown.

Paris, a message which evinces the great importance you so rightly attach to the solemn signing of the general compact renouncing war as an instrument of national policy. The fact that the ceremony is on this day celebrated in Paris comes from a desire which you put in a peculiarly nice form that of acknowledging the initial part taken by the French Government and its Minister for Foreign Affairs in bringing about the great project, the French nation is thankful for and proud of the honor bestowed upon it in the reception of the foreign plenipotentiaries can not forget that thanks are due to the skilful and conciliatory efforts of the President and of the Secretary of State of the United States for the manner in which the covenant was received by the leading nations of the world which befitted the trait of universality that makes its power and greatness. I therefore feel sure that I am voicing the sentiments of the original signatories of the treaty as well as those of the still larger number who will adhere anon, when I express to Your Excellency and your Government the thanks of the civilized world. I am, as you are, convinced that the act accomplished on this day responds to the innermost longings of all mankind.

GASTON DOUMERGUE

711.0012Anti-War/336 : Telegram

*The Ambassador in France (Herrick) to the Acting Secretary of State*²⁴

PARIS, August 27, 1928—3 p. m.

[Received August 27—12:12 p. m.]

265. The Secretary asks that the following message from him be sent at once to all missions to which the circular telegram of August 16, 11 p. m., was sent direct by the Department. Missions reached via Paris are being instructed from here:

“Anti-war treaty signed this afternoon. Please deliver as soon as possible the note transmitted in the Department’s circular telegram of August 16, 11 p. m., dating the note today August 27, 1928. Do not fail to transmit French text of the treaty at the same time. Frank B. Kellogg, Secretary of State.”

HERRICK

Notifications of Adherence

711.2312Anti-War/6

The Peruvian Ambassador (Velarde) to the Secretary of State

WASHINGTON, August 27, 1928.

SIR: The position taken by that [*the*] Department, in having initiated the celebration of a multilateral treaty for the renouncing of

²⁴ Repeated by the Department to the missions concerned, Aug. 27, 1 p. m.

war in the world, signed to-day in Paris by the nations which have accepted it thus marking a glorious stage in the history of humanity, will be, for all time, a legitimate source of pride to the great nation of the United States of America.

In fulfillment of the express instructions of the President, Mr. Augusto B. Leguia, and of his Government, I hasten to express to Your Excellency that Peru formally, and with sincere enthusiasm, adheres to the anti-war pact above-mentioned and that as soon as a certified copy thereof shall have been received, it will be submitted to the cognizance of the National Congress for ratification.

Peru, who has ever been a partizan of cordiality and peace in international relations and who aspires, therein, to nothing more than to the predominance and triumph of justice cannot remain indifferent to the position taken which the signing of the pact above referred-to implies for the progress of mankind.

I would therefore request Your Excellency to be so good as to consider Peru and its Government as adhering to the transcendental treaty in question.

Accept [etc.]

HERNÁN VELARDE

711.S212Anti-War/7

The Minister in Liberia (Francis) to the Secretary of State

No. 114 Diplomatic

MONROVIA, August 27, 1928.

[Received September 21.]

SIR: I have the honor to confirm this Mission's cable No. 31, August 25, 10 A. M.²⁵ and to acknowledge receipt of Department's circular cable of August 16, 11 P. M.,²⁶ via the Embassy at Paris, August 19, containing information concerning the signing of the Multilateral Treaty for the Renunciation of War to take effect on Monday, August 27, 1928, at Paris, with instructions covering the entire matter. And further to acknowledge receipt of Department's cable of August 21, 4 [5?] P. M.,²⁵ via the Embassy at Paris, containing in the French language the text of the Treaty, with instructions that the treaty in the French text be delivered to the Foreign Office of the Republic of Liberia simultaneously with the Note containing the English text.

As requested the Secretary of State of the Republic of Liberia was, on the morning of the 23rd day of August, informally advised in accordance with instructions; and on this day, Monday, August 27, 1928, the original Note, together with the text of the Treaty in French, was formally delivered to His Excellency the Secretary of State of the Republic of Liberia, and he was informed that the French text was delivered at the request of the French Government

²⁵ Not printed.

²⁶ *Ante*, p. 149.

and that an identic Note, *mutatis mutandis*, is being delivered simultaneously in the other world capitals, and that pursuant to the procedure which has been followed through the present negotiations the text thereof is being promptly released for publication.

His Excellency expressed the pleasure of his Government over the consummation of such an important undertaking and delivered to me, for transmission to my Government in accordance with Article III of the Multilateral Treaty, formal notice of the adherence of the Government of the Republic of Liberia to the treaty.

Inasmuch as there are no daily or weekly publications in Monrovia, an invitation was extended to the representatives of the monthly publications to attend a conference at the Legation at 4 P. M., August 23, at which time the importance of the event was impressed upon them and a memorandum covering the signing of the Multilateral Treaty was handed to each of them to be released for publication, as far as their limited space will permit, in the issue immediately following the 28th of August.

This Legation awaits the arrival of the pamphlets containing the Briand proposal and the correspondence ending with the Note of July 20, 1928, when it will make a copy immediately available to the Foreign Office.

I have the further honor to enclose copy of the Note to the Foreign Office of the Republic of Liberia; original adherence to the treaty by the Republic of Liberia, copy of the text of the treaty in French; copy of the invitation to the representatives of the press and copy of the memorandum delivered to the representatives of the press at the press conference.²⁷

I have [etc.]

W. T. FRANCIS

[Enclosure]

*The Liberian Secretary of State (Barclay) to the American
Minister (Francis)*

692/D

MONROVIA, August 27, 1928.

MR. MINISTER: Having followed with interest and sympathy the negotiations entered upon by the United States and certain other Powers with a view to the conclusion of a treaty binding them to renounce war as an instrument of national policy in their relations with one another, the Government of the Republic of Liberia have learned with satisfaction that such a treaty has eventually been concluded and that it was signed today at Paris by the original parties thereto.

2. My Government being deeply interested in the aim sought to be achieved by the treaty are desirous of identifying themselves with

²⁷ The enclosures listed in this paragraph are not printed.

the beneficent purposes of the signatory powers. To that end, therefore, they are availing themselves of the provisions of Article III of the Treaty, and have instructed me to give formal notice of the adherence of the Government of the Republic of Liberia to the treaty for the renunciation of war as an instrument of national policy, signed at Paris August 27, 1928.

3. Acting upon these instructions, I have the honour formally to notify you of the adherence of my Government to the treaty above referred to, and to solicit your good offices in facilitating the deposit of this instrument of adherence at Washington.

With sentiments of distinguished consideration, I have [etc.]

EDWIN BARCLAY

711.5712Anti-War/2½

The Norwegian Legation to the Department of State

MEMORANDUM

The Chargé d'Affaires of Norway has been instructed by his Government to inform the Department of State that on August 27, 1928, it gave Mr. Swenson, the United States Minister to Norway, the following reply to his enquiry regarding the Kellogg Treaty: It is the opinion of the Norwegian Government that the Treaty is an important step towards the advancement of peace and justice between nations and the Norwegian Government consequently approves of the Treaty. In accordance with this viewpoint the Norwegian Government will, as soon as possible, submit to the Storting a Royal proposition in regard to the adherence of the Kingdom of Norway to the Kellogg Treaty to renounce War.

WASHINGTON, August 28, 1928.

711.3212Anti-War/12

The Ambassador in Brazil (Morgan) to the Secretary of State

No. 3052

RIO DE JANEIRO, August 29, 1928.

[Received September 12.]

SIR: I have the honor to report that the Department's telegram of August 27, 1 P. M.²⁸ was not delivered by the telegraph company at this office until after 7 o'clock on the evening of that day, and that since the Foreign Office was closed for business before that hour it was impossible to hand to the Minister for Foreign Affairs, Dr. Octavio Mangabeira, until half past eleven on the morning of August 28, the copy of the note the text of which was contained in the

²⁸ See footnote 24, p. 158.

Department's circular telegram of August 16, 12 M. N., accompanied by a copy of the pamphlet entitled "Notes Exchanged between the United States and other Powers on the subject of a Multilateral Treaty for the Renunciation of War. June 20, 1927—July 20, 1928". This I did in person.

Late yesterday afternoon Dr. Mangabeira's reply was delivered at this office, a copy of the text of which in Portuguese, accompanied by an English translation, I have the honor to enclose. This reply forms the subject of my telegram to the Department No. 33, of August 29, 3 P. M. ²⁹

The text of the Multilateral Anti-War Treaty was published by the local press in Portuguese on Sunday, August 26, and the text of my note to the Foreign Office, together with the text of Minister Mangabeira's reply, which latter document was supplied by the Foreign Office, were published in Portuguese in the local press this morning. The text of the treaty which was published on August 26, I am informed by the local representative of the United Press, was supplied from Buenos Aires.

The Portuguese text, with English translation, of four short articles which have appeared within the last few days in the local press expressing Brazilian opinion regarding the treaty are herewith enclosed.²⁹

I have [etc.]

EDWIN V. MORGAN

[Enclosure—Translation]

The Brazilian Minister for Foreign Affairs (Mangabeira) to the American Ambassador (Morgan)

LA/70

RIO DE JANEIRO, August 28, 1928.

EXCELLENCY: I have the honor to acknowledge the receipt of note No. 1382, of the 27th instant, wherein Your Excellency informs me, in the name of your Government, of the text of the collective treaty to outlaw war, which has just been signed at Paris.

2. Your Excellency states, in the note to which I refer, not only the origin of the said treaty but also the procedure adopted in its elaboration, and the reasons why the negotiations on the subject were confined to certain nations. You add, however, that your Government understanding that other States will desire to associate themselves in such a noble movement for peace succeeded in having the necessary provision therefor adopted, and that at any time the respective adhesions will be received with pleasure.

3. Be assured, Mr. Ambassador, that the Brazilian Government at this happy moment rejoices with that of the United States of America

²⁹ Not printed.

and the other States and Dominions authors of the great pact. And its sincerity is so much the greater because in Brazil the principles on which the new treaty has conferred the most solemn of consecrations before being engraved in the very text of the provisions of the Federal Constitution have been in the conscience of the nation, to which principles it never expects to fail to give the fidelity which it owes them whatever the emergency may be.

Taking note, Mr. Ambassador, of your important communication, for which I am cordially thankful, I avail myself [etc.]

OCTAVIO MANGABEIRA

711.1912Anti-War/1 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, August 30, 1928—noon.

[Received 2:25 p. m.]

100. Department's circular August 16, midnight. Panaman Government accepts in principle and will recommend formal adherence to Congress on receipt of certified copy of treaty text.

SOUTH

711.5412Anti-War/2 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, August 30, 1928—4 p. m.

[Received August 30—2:13 p.m.]

83. Department's circular telegram August 16, 11 p. m. Following is translation of note received from Political Department dated today.

"Mr. Minister: We have had the honor to receive the note number 87, dated August 27, by which Your Excellency kindly transmitted to us the text of the treaty condemning war as an instrument of national policy, signed the same day at Paris, and invited the Federal Council to examine the possibility for Switzerland to accede to this agreement.

We have likewise received a copy of the document published by the Government of the United States containing the text of the notes exchanged during the negotiations.

In expressing our thanks for these important communications, we hasten to inform you that the Federal Council took note of them with the greatest interest and that it rejoices at the fortunate conclusion of an agreement which constitutes so eloquent a manifestation in favor of the maintenance of peace in the world.

A collective treaty such as the Kellogg Pact which condemns recourse to war for the settlement of international disputes and proscribes it as an instrument of national policy, a treaty which, moreover, imposes it as a duty upon the contracting states to search by pacific means the solution of all differences of whatsoever nature,

was certain to receive the most favorable welcome from the Government and people of Switzerland.

The renunciation of war as an instrument of national policy is in full harmony with the traditional policy of Switzerland and is effectively consecrated by her permanent neutrality which is indeed for Switzerland axiomatic. The idea that all disputes must be regulated or solved by pacific means likewise fully accords with the conception which Switzerland seeks to realize by her policy in the field of international arbitration.

The Federal Council is accordingly convinced that the careful study to which it is submitting the question will undoubtedly lead it to recommend to the Federal Chambers that it be authorized to accede to the new treaty.

In requesting you to bring the foregoing to the attention of your Government we avail ourselves, et cetera. Signed Motta."

Political Department is making the note public tomorrow, August 31.

WILSON

711.1812Anti-War/3

The Costa Rican Chargé (González) to the Secretary of State

[Translation]

WASHINGTON, August 30, 1928.

MR. SECRETARY: I have the honor to inform Your Excellency that I have been informed by my Government that, in response to the kind invitation received through the Chargé d'Affaires ad interim of the United States of America at San José, the Government has declared that it adheres to the Kellogg pact which will, in due course, be referred to the Congress for its ratification.

I am [etc.]

GUILLERMO E. GONZÁLEZ

711.3712Anti-War/4

The Ambassador in Cuba (Judah) to the Secretary of State

No. 414

HABANA, August 30, 1928.

[Received September 5.]

SIR: With reference to my despatch No. 413 of August 29, 1928,³¹ I have the honor to transmit herewith for the Department's information a copy of a note just received from the Cuban Under Secretary of State in connection with the adherence of Cuba to the Multilateral Treaty for the Renunciation of War, together with a copy of an enclosure therewith comprising certain remarks of President Machado on this subject, and my reply thereto,³² as well as translations of the first two documents.

I have [etc.]

NOBLE BRANDON JUDAH

³¹ Not printed.

³² Reply not printed.

[Enclosure—Translation]

The Cuban Under Secretary of State (Campa) to the American Ambassador (Judah)

No. 858

HABANA, August 29, 1928.

MR. AMBASSADOR: I have the honor to acknowledge receipt of Your Excellency's note dated August 27th, informing me, in behalf of your Government, that on that date there had been signed in Paris a treaty whereby the governments of Germany, the United States, Belgium, France, Great Britain, Canada, Australia, New Zealand, the Union of South Africa, the Irish Free State, India, Italy, Japan, Poland and Czechoslovakia renounce war as an instrument of national policy in their mutual relations and bind themselves to submit the arrangement of all differences which may arise in the future between them to pacific means of solution.

Although in the *Note Verbale* of this Department dated the 28th I expressed to Your Excellency the opinion of this Government with regard to this Treaty and its intention to adhere thereto as soon as the protocol for the signing thereof provided in Article Three should be opened in Washington, today, in behalf of the Government of the Republic I am able to inform you that on proposal of the President of the Republic, the Cabinet resolved formally to adhere to the Treaty as soon as possible, for which purpose, telegraphic instructions were transmitted to the Chargé d'Affaires at Washington. I must add that immediately after said resolution was approved, the Cabinet Meeting adjourned, thereby paying a marked homage to the signing of said Pact, which will undoubtedly mark an epoch in the Destiny of Nations.

I also desire to express to Your Excellency the appreciation of this Department for supplying it with the English and French texts of said Pact.

Permit me to enclose a copy of the declarations of President Machado, made today at the termination of the Cabinet meeting, which express his absolute identification and that of the people of Cuba with this peace policy set forth in the Paris Treaty and from which justice and well-being are to be derived for all the nations.

I avail myself [etc.]

MIGUEL ANGEL CAMPA

[Subenclosure—Translation]

Statement by President Machado

The Republic of Cuba will adhere to the multilateral treaty signed in Paris on August 27th, called the Kellogg Pact, whereby the nations

condemn war as a system of solving international controversies and bind themselves to use pacific means in the case of a disagreement.

For more than three years my Government has collaborated sincerely in the efforts made by humanity to organize peace.

Our diplomatic action, active and persevering, was shown to be such in every international conference, whether it was universal, such as the League of Nations, or regional, such as the Sixth International American Conference of Habana.

I am convinced of the effectiveness of this agreement which will join the nations by sacred ties, and which is to serve as a foundation for the beneficial interests of peace, just as in the past other treaties created motives for hatred and for violence which carried states toward pain and ruin.

Blessed be this America of ours from which has come forth this admirable gesture of concord which will favor the pacific development of the human race, making it impossible for the work of collective labor in which every nation has its share and responsibility to be destroyed in an insane hour of greed or madness!

711.5612Anti-War/9

The Netherlands Chargé (Van Hoorn) to the Acting Secretary of State

No. 2844

WASHINGTON, 31 August, 1928.

SIR: In answer to the note of Mr. Norweb addressed to the Minister for Foreign Affairs at The Hague and extending to Her Majesty's Government an invitation to become a signatory to the multilateral treaty for the renunciation of war, I am instructed by my Government and have the honour to inform you that the Government of the Queen has followed with the greatest interest and sympathy the progress of the negotiations which have been brilliantly concluded with the signing on August 27 of the treaty to renounce war as an instrument of national policy.

My Government, on whose territory the Peace Conferences of 1899 and 1907 have had place and whose policy has always been directed towards the promotion of world peace, greets the contents of said treaty as a real progress of mankind, and has immediately taken the necessary measures prescribed by the constitution in order to be able to adhere to the same.

Please accept [etc.]

L. G. VAN HOORN

711.8412Anti-War/1 : Telegram

The Minister in Ethiopia (Southard) to the Secretary of State

ADDIS ABABA, August 31, 1928—2 p. m.

[Received September 3—8:40 p. m.]

Referring to the Department's telegram of August 16, 11 p. m. I transmit as requested by the Government of Ethiopia the following telegram to you:

"Upon behalf of the Government of the Empire of Ethiopia I hereby notify adherence of that Government to the Kellogg Multilateral Treaty renouncing war. I await information as to the steps necessary to complete act of adherence. Tafari Makonnen, Prince Regent, Heir to the throne of Ethiopia."

SOUTHARD

711.60 d 12Anti-War/11

The Minister in Finland (Pearson) to the Secretary of State

No. 1000

HELSINGFORS, August 31, 1928.

[Received September 13.]

SIR: I have the honor to refer to the telegram received from the American Embassy, Paris, signed Frank B. Kellogg, Secretary of State, and dated August 27, 3 p. m. in which the Legation was requested to deliver to the Foreign Office a note containing the anti-war treaty signed in Paris, together with an invitation to the Finnish Government to adhere to the pact. This note was delivered to the Acting Minister for Foreign Affairs on August 28th and the Legation is now in receipt of a reply from the Finnish Government, a copy of which is enclosed herewith.

I have also been verbally assured by the Acting General Secretary of the Foreign Office that the Finnish State Council is favorably disposed to the treaty and will submit a proposition to the Diet for Finland's adherence to the Multilateral Treaty for the Renunciation of War.

The Legation's telegram No. 9 of August 31, 12 noon,³³ was sent as an interpretation of the note based upon a conversation which I had this morning with the Acting General Secretary of the Foreign Office.

I have [etc.]

ALFRED J. PEARSON

³³ Not printed.

[Enclosure]

The Finnish Acting Minister for Foreign Affairs (Sunila) to the American Minister (Pearson)

HELSINKI, August 30, 1928.

MONSIEUR LE MINISTRE: I have the honor to acknowledge the receipt of your note of August 27th 1928 in which you informed me that the Governments of Australia, Belgium, Canada, Czechoslovakia, France, Germany, Great Britain, India, the Irish Free State, Italy, Japan, New Zealand, Poland, South Africa and the United States of America have the same day signed in Paris a treaty binding them to renounce war as an instrument of national policy in their relations with one another and to seek only by pacific means the settlement or solution of all disputes which may arise among them. At the same time you communicated to me the text of the abovementioned treaty for the consideration of the Government of Finland, in view of its adherence.

On account of this I have the honor to inform you for the communication to your Government that the Government of Finland has received with pleasure your announcement with the invitation included in it, and that it takes a favorable attitude in the matter regarding the adherence of Finland to the treaty. While accepting this attitude in regard to the present treaty the Government of Finland has taken notice of the authentic declarations given in regard to the influence of the provisions of the treaty, *inter alia*, into the rights and obligations of the contracting Powers in their capacity of members of the League of Nations. In conformity herewith I have the honor to bring to your notice that the Government of Finland attaching great importance to the universality of the treaty, will in due time submit it for the approval of the Diet.

I avail myself [etc.]

J. E. SUNILA

711.6312Anti-War/7

The Chargé in Austria (Greene) to the Secretary of State

No. 1942

VIENNA, August 31, 1928.

[Received September 15.]

SIR: I have the honor to acknowledge the receipt of the Department's circular telegram of August 16, 11 p. m., 1928, with which was transmitted the text of the note to be dated August 27, 1928, informing the Austrian Government of the signing of the multilateral Anti-war Treaty in Paris and quoting the text of the Treaty, and to refer to my telegrams No. 39 of August 25, 10 a. m. and No. 40 of August 28, 11 a. m.,³⁴ reporting that I had complied with

³⁴ Neither printed.

the Department's instructions and stating that the Austrian Government was ready to adhere to the Anti-war pact and that the question would be taken up at a meeting of the Cabinet Council on August 30.

I now have the honor to transmit herewith enclosed a copy and translation of a note dated August 30, received today from Dr. Seipel, Federal Chancellor and Minister of Foreign Affairs. This note, in acknowledging the receipt of my note of August 27, states that the Austrian Government at the meeting of the Cabinet Council yesterday August 30, decided to adhere to the Treaty and that it will submit the resolution to the National Council and the Bundesrat as soon as possible. As soon as the National Council and the Bundesrat, which meet in September, exact date as yet unannounced, have approved Austria's adherence to the Treaty, the Austrian Minister in Washington will be appropriately instructed.

In connection with my presentation of the note, I have the honor to report that the Secretary's telegram from Paris dated August 27, 3 p. m., was not delivered to the Legation until 8 p. m. I had of course informed the Foreign Office that I expected to deliver the note on August 27 immediately after receiving the Secretary's telegram. Owing to the lateness of the hour, the Austrian Foreign Office informed me by telephone that they would prefer the note to be delivered on the morning of August 28. This I did, at the same time including in a second note, also dated August 27, a copy of the official French text of the Treaty, in compliance with the Department's Instruction dated August 21 received from the American Embassy in Paris.³⁵

The Austrian Foreign Office on the same day gave a translation of the note for publication, and this appeared in the afternoon editions of August 28. Secretary General Peter, acting for Dr. Seipel in the latter's absence, informed me that the Federal Chancellor was most anxious to have the note published at the earliest possible moment, and acting under his instructions the Austrian Foreign Office insured its publication in the local press on the day the note was received.

I have [etc.]

ELBRIDGE GERRY GREENE

[Enclosure—Translation]

The Austrian Minister for Foreign Affairs (Seipel) to the American Chargé (Greene)

No. 24.136/13

VIENNA, August 30, 1928.

MR. CHARGÉ D'AFFAIRES: I have the honor to acknowledge the receipt of the esteemed note of the 27th instant, in which you inform

³⁵ Not printed.

me of the fact that a general war proscription pact has been signed in Paris and in the name of your Government invite Austria to adhere to this pact.

I am happy to be able to inform you today that the Austrian Government,

in recognition of the fact that this pact forms an excellent means for assuring universal peace;

in the consciousness that the ideas expressed in the pact correspond absolutely with the fundamental ideas according to which the policy of the Austrian Republic has always been conducted;

and in the desire to express not only its full sympathy for the pact, but also its appreciation for those men to whose brave initiative the realization of this important treaty is due, by means of a speedy declaration of adherence to the pact;

has decided to carry out the adherence of Austria to the war proscription pact signed on August 27 a. c. in Paris by the authorized representatives of the United States of America, Australia, Belgium, Germany, France, Great Britain, India, the Irish Free State, Italy, Japan, Canada, New Zealand, Poland, South Africa and Czechoslovakia, according to article III of the said pact.

The Federal Government will endeavor to submit this resolution as soon as possible to the National Council and the Federal Council for approval. As soon as this is done, the Austrian Minister at Washington will be instructed to present to the Secretary of State of the United States the declaration of adhesion.

Begging you to inform your Government of the above, I beg [etc.]

SEIPEL

711.6112Anti-War/72

*The Acting Commissar for Foreign Affairs of the Union of Soviet Socialist Republics (Litvinoff) to the French Ambassador in Russia (Herbette)*³⁶

[Translation]

Moscow, August 31, 1928.

MR. AMBASSADOR: On August 27 you were good enough to advise me officially under instructions from your Government that on that same day the Governments of the German Republic, the United States of North America, Belgium, France, Great Britain and its Dominions, Italy, Japan, Poland and Czechoslovakia had signed at Paris a multilateral pact whereby they pledge themselves not to resort in their mutual relations to war as an instrument of national

³⁶ Transmitted to the Department of State by the French Embassy in Washington on Sept. 27, 1928.

policy, but to solve the differences which might arise among them by exclusively pacific means. In handing me a copy of the said Pact and briefly stating its history, you were also good enough, Mr. Ambassador, to inform me:

(a) that the limitation of the number of the original signatories of the Pact was prompted solely, according to the Government of the United States of North America, by purely practical considerations and was for the purpose of facilitating the effective application of the Pact in the shortest time possible, but that it had always been intended that as soon as the Pact should be finally made effective the immediate concurrence of all the nations in the world would be guaranteed on the same conditions and with the same advantages as those that are given to the original signatories of the Pact;

(b) that in accordance with the foregoing, the Government of the United States of North America was charged with the duty of accepting the declarations of all States desiring to adhere to the Pact;

(c) that the representatives of the Government of the United States of North America in all foreign States, with the exception of those whose representatives have already signed the Pact have been instructed to communicate to the governments to which they are accredited the text of the Pact signed in Paris;

(d) that the Government of the United States of North America declared its readiness to receive from now on the instruments of adherence of those governments;

(e) that the Government of the French Republic accepted the mission of advising the Government of the U. S. S. R., through you, Mr. Ambassador, of the text of the said Pact and to inquire whether it was willing to accede and

(f) that, if so, you, Mr. Ambassador, were authorized to receive the instrument of adherence to the Pact for transmission to Washington.

In communicating to you, by the present note, the reply of the Government of the U. S. S. R. to your inquiry, I have the honor to beg you, Mr. Ambassador, to communicate the following to your Government with the request that it kindly transmit it to the Government of the United States of North America.

1. The Soviet Government, which from the very beginning of its existence has based its foreign policy on the protection and guarantee of general peace, has always been a consistent supporter of peace and has always met half way any action taken in that direction. The Soviet Government, furthermore, has always believed, and still believes, that the one effective way of preventing armed conflict is to accomplish the program of general and total disarmament, as in the feverish atmosphere of general armament any rivalry between States unavoidably leads to war, which is the more murderous in proportion as the system of armament is perfected. A detailed plan of complete disarmament had been proposed by the delegation of the Soviet Union to the Preparatory Commission of

the Conference on Disarmament at the League of Nations,³⁷ but unfortunately did not win the support of a majority of that Commission, including the representatives of those very Powers which are the original signatories of the Pact of Paris. The plan was rejected although its acceptance and enforcement would have meant a genuine guarantee of peace.

2. Unwilling to overlook any chance of contributing to the lessening the burden of armament which is a crushing one for the peoples, the Soviet Government, after the rejection of its proposals for total disarmament, not only did not decline to discuss the partial reduction of armaments but itself intervened through its delegation in the Preparatory Commission with a detailed draft of a plan of partial but substantial disarmament. Yet the Soviet Government, unfortunately, must point out that this plan also was not supported by the Preparatory Commission which thereby once more proved the total impotence of the League of Nations in the field of disarmament which, nevertheless, is the most substantial guarantee of peace and the most powerful means of abolishing war; this took place in the face of the obvious resistance offered to the Soviet proposals by nearly all the States which were the first to sign the Pact prohibiting war.

3. Aiming to bring into effect its policy of peace, the Soviet Government, besides its systematic defense of the cause of disarmament, had also addressed the other governments, long before the idea of the Pact recently signed at Paris had arisen, with the proposal to renounce through bi-lateral pacts not only the wars foreseen in the Pact of Paris but any mutual aggression and any armed conflict whatsoever. Certain States such as Germany, Turkey, Afghanistan, Persia and Lithuania accepted this and concluded with the Soviet Government appropriate pacts. Other Governments ignored this proposal and avoided answering it, and again others rejected it, giving the strange reason that the unreserved renunciation of aggression would be incompatible with their obligations towards the League of Nations. That, however, did not prevent those same Powers from signing the Pact of Paris without mentioning in the text itself the sacredness of the above mentioned obligations.

4. The facts hereinabove stated afford unquestionable proof that the idea of eliminating wars and armed conflicts from the field of international politics is the predominant idea of the foreign policy of the Soviets. Nevertheless, the originators of the Pact of Paris did not see fit to ask the Soviet Government either to join in the *pourparlers* which preceded this Pact or in the drawing up of the text of this Pact. Likewise, no invitation was sent to certain Powers really concerned in the maintenance of peace, because, either

³⁷ See pp. 235 ff.

in the past (Turkey and Afghanistan), or in the present, (the Republic of the great Chinese people) they have been or are attacked. Neither does the invitation, transmitted by the French Government, contain conditions which would make it possible for the Soviet Government to exercise any influence on the text itself of the instrument signed at Paris. Yet, the Soviet Government lays down as a basis the axiom that under no condition whatsoever can it be deprived of the right which has accrued or may hereafter accrue to the governments that have signed the Pact, and standing on that right the Soviet Government must in particular first offer several remarks concerning its attitude towards the Pact.

5. First of all the Soviet Government can not refrain from expressing its most profound regret that there is not in the Pact of Paris any obligation whatsoever concerning disarmament. The Soviet Delegation to the Preparatory Commission of the Disarmament Conference already has had occasion to declare that it is only by joining a pact prohibiting war with the accomplishment of total and general disarmament that the maintenance of universal peace could be effectively guaranteed and that, on the contrary, an international treaty prohibiting war, but not accompanied by even that elementary guarantee offered by the limitation of armaments that are continually increasing would be a dead letter without any real importance. The public declarations recently made by certain signatories of the Pact of Paris concerning the unavoidable continuation of armament even after the Pact is concluded are truly a confirmation of the foregoing. The new political international groups which have arisen in the meanwhile with especial regard to the question of naval armaments have added force to this position. That is why the present situation makes it more than ever imperative to take decided measures in the field of disarmament.

6. In considering the text of the Pact the Soviet Government deems it necessary to call attention to the lack of definiteness and clearness in Article 1 of the very formula that prohibits war, this formula being open to divergent and arbitrary interpretations. For its part, the Soviet Government believes that all international warfare must be prohibited either as an instrument of what is styled "national policy" or as a means to promote other ends (for instance, the repression of movements for the liberation of peoples, etc.). According to the Soviet Government wars must be prohibited not only in the juridical and formal construction of the word (that is to say, implying a "declaration of war", etc.) but also such military actions as, for instance, intervention, blockade, military occupation of foreign territories, of foreign ports, etc. The history of these last few years presents quite a number of military actions of this kind which have brought upon peoples terrible calamities. The Soviet Republics themselves have been the object of such aggressions and at the present time

the immense population of China is suffering from such attacks. What is more, such military actions often assume the proportions of great wars which it becomes completely impossible to stop, and yet, the Pact makes no mention of these questions that are so grave from the standpoint of peace. Next, the same Article 1 (*sic*) of the Pact deals with the necessity of solving all disputes and all international disputes by exclusively pacific means. Taking this position as a point of departure, the Soviet Government believes that it is also necessary to include in the number of non-pacific means that are prohibited by the Pact such means as a refusal to resume normal pacific relations between nations or breaking such relations, for such acts, by eliminating the pacific means which might settle controversies, embitter relations and contribute to the creation of an atmosphere that is conducive to the unleashing of wars.

7. Among the restrictions made in writing at the time of the diplomatic *pourparlers* among the original signatories of the Pact the Soviet Government noticed in particular the reservation of the British Government in paragraph 10 of its note of May 19 of this year. The British Government there reserves to itself absolute freedom of action as towards several regions which it does not even specially enumerate. If they are regions forming part of the British Empire or its dominions all of them are already included in the Pact and the case of any aggression against them is provided for in the Pact so that the reservation of the British Government in respect thereof might seem to be at least superfluous. But if other regions are referred to, the signatories of the Pact have a right to know exactly where the freedom of action of the British Government begins and where it ends.

But the British Government reserves to itself full freedom of action not only in case of armed aggression against those regions but even in case of any act whatsoever of enmity or of "interference" which would justify the British Government in opening hostilities. Recognition of such a right for that Government would amount to justifying war and might serve as a contagious example to other signatories of the Pact who, equality of rights being assumed, would also claim the same liberty with regard to other regions and the result would be that there would probably be no place left on the terrestrial globe where the Pact could be applied. Indeed, the restriction made by the British Government carries an invitation to another signatory of the Pact to withdraw from its operation still other regions. The Soviet Government is unable to regard this reservation as anything but an attempt to use the Pact itself as an instrument of imperialistic policy. But the said note of the British Government is not communicated to the Soviet Government as an

integral part of the Pact or an annex thereto, therefore it can not be considered as binding on the Soviet Government, just as the other restrictions concerning the Pact mentioned in the diplomatic correspondence, are not binding on the Soviet Government. Neither can the Soviet Government agree to all of the restrictions that may justify war and particularly the restrictions made in the said correspondence in order to withdraw from the operation of the Pact decisions flowing from the constitution of the League of Nations and the Locarno Agreements.

8. Summing up the foregoing, I have still to note the absence from the Pact of obligations concerning disarmament which stands as the one essential element by which peace can be guaranteed; the inadequacy and uncertainty of the very formula concerning the prohibition of war and finally the existence of several restrictions the purpose of which is to avoid any appearance of a promise with respect to the cause of peace. Nevertheless, inasmuch as the Pact of Paris imposes on the Powers certain obligations as to public opinion and affords the Soviet Government a new possibility of placing before all those who are parties to the Pact the most important question for the cause of peace, that of disarmament, the solution of which remains the only guarantee capable of eliminating warfare, the Soviet Government expresses its consent to adhere to the Pact of Paris.

In accordance with the foregoing, I shall, Mr. Ambassador, have the honor shortly to forward to you the instrument of adherence of my Government as soon as the formalities connected with it shall have been accomplished.

I take [etc.]

M. LITVINOFF

711.5812Anti-War/9 : Telegram

The Minister in Sweden (Harrison) to the Secretary of State

STOCKHOLM, *September 1, 1928—5 p. m.*

[Received September 1—3:00 p. m.]

17. Department's circular of August 16, 11 p. m. In a note dated today Minister for Foreign Affairs acknowledged the receipt of my note of August 27, containing the text of the Multilateral Anti-War Treaty and replies as follows:

“Animated by the same desire to ensure the maintenance of peace which inspired the signatory powers, the Royal Government proposes to ask the Riksdag as soon as possible to give its consent to Sweden's adherence to the [above-mentioned] treaty.”

A statement to this effect will be given out tonight and full text will be released on September 3.

HARRISON

711.5912Anti-War/11

The Danish Minister (Brun) to the Acting Secretary of State

No. 122

BAR HARBOR, MAINE, *September 1, 1928.*

[Received September 4.]

SIR: On the 27th of August this year the American Minister at Copenhagen transmitted to the Danish Minister of Foreign Affairs a note by which the Danish Government was invited to adhere to the treaty signed on that same day at Paris, which condemns the recourse to war for the solution of international disputes.

With reference to the said note the Minister of Foreign Affairs has instructed me to state to you, that the Danish Government has great pleasure in joining entirely in the high ideas which have inspired this treaty, and has felt a deep satisfaction at the completion of this great plan which is destined to contribute to the steady advance of the idea of peace among the nations of the world.

I am furthermore instructed to declare formally to you, that the Danish Government adheres to the said Treaty, with reservation only of ratification in accordance with the Danish Constitution.

The Minister of Foreign Affairs is prepared to submit the Treaty in due time to the Danish Parliament ("Rigsdag") in the session which opens at the beginning of the month of October next.

I have the honor to ask you to be so good as to acknowledge the receipt of my present communication.

I have [etc.]

C. BRUN

711.7112Anti-War/10

*The Rumanian Chargé (Sturdza) to the Acting Secretary of State*WASHINGTON, *September 4, 1928.*

SIR: In conformity with telegraphic instructions I have the honor of transmitting to Your Excellency the following note received from the Royal Government:³⁸

"I had the honor to receive on August 27th a note in which the Chargé d'Affaires of the United States advises the Royal Government that the treaty of renunciation of war has been signed at Paris by the representatives of the governments of Germany, Australia, Belgium, Canada, Czechoslovakia, France, Great Britain, India, Ireland, Italy, Japan, New Zealand, South Africa, and the United States of America.

"By the same note the Royal Government is advised as to the means of adhesion to the treaty by the states which have not taken part in the signature at Paris.

³⁸ The quotation which follows is a translation of the French text.

"It is shown with absolute clearness by the negotiations preliminary to the signature of the treaty as well as by the changes which have been made in the preamble with respect to its original text and the explanations contained in the note under date of June 23, 1928, of the Government of the United States addressed to the governments invited to sign the treaty, that this treaty in no respect modifies the provisions of the covenant of the League of Nations. Consequently, the rights and obligations derived from the new treaty constitute neither an extension nor a reduction of the rights and obligations derived from the covenant of the League of Nations, which remain as they are. It also appears that the new treaty does not conflict with the neutrality treaties nor, in general, with the engagements contained in existing treaties which the Royal Government has contracted up to the present. It also follows from the note of the Government of the United States of June 23rd³⁹ and the above-mentioned acts and negotiations that any violation of the multilateral treaty by one of the contracting parties *ipso facto* releases the other powers signatory to the treaty from their obligations toward the power which has violated the engagements of the same treaty. It follows moreover that the right of defense is in no way affected or restricted by the engagements of the new treaty and that each power is entirely free to defend itself at will and according to its necessities against an attack or a foreign invasion.

"Thus defined, whether in the text of its preamble, or the statements in the note of the Government of the United States of June 23, 1928, or in the observations made preliminary to signature by the various governments taking part in the negotiations, especially by that of the French Republic, the object of the new treaty is to consolidate and maintain the relations of peace and peaceful and friendly cooperation under the contractual conditions in which they are now established between the nations concerned.

"In the light of the explanations given above and which, while confirming the explanations given by the signatory powers, define the terms of the consent and signature of Rumania, at the moment when she is invited to give them, the Royal Government is happy to be able to reply in the affirmative to the invitation given it to adhere to the treaty signed at Paris August 27, 1928.

"The Royal Government considers that it is its duty to render homage to the noble initiative of the United States for the purpose of prohibiting war as an instrument of national policy with the object of satisfying selfish interests, as well as to the efforts of all the states, thanks to the valuable support of which this initiative has been crowned with success. Rumania, which aspires only to labor in peace, sees in the signature of the new treaty one of the most important events in the progress of the world toward universal concord.

Argetoianu."

Concluding, I have the honor to communicate to Your Excellency that I am instructed to adhere immediately to the pact to which the note of my Government refers.

³⁹ See footnote 81, p. 90.

I am informed by the Royal Government that my full powers have been communicated to the Chargé d'Affaires of the United States in Bucharest. This procedure was adopted as a matter of urgency and expediency and the text will arrive by mail.

I beg [etc.]

[MIHAIL R.] STURDZA

711.1512Anti-War/1 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, September 4, 1928—2 p. m.

[Received September 5—12:58 a. m.]

109. Your circular telegram of August 16, midnight, relative to multilateral treaty for the renunciation of war.

I have received from the Foreign Office a note dated September 4th, which, after detailed paraphrase of my note of August 27th, reads as follows in translation:

"My Government has given the most careful consideration to the momentous note of Your Excellency, appreciating in all its transcendental importance the work brought to a conclusion at Paris by the United States of America through the signing of the treaty against war. Conforming to the exalted purposes of that treaty, my Government is pleased to declare its decision to adhere to it as soon as the respective ratifications of the original signatory powers for putting the treaty into effect have been received.

In the meanwhile my Government expresses through Your Excellency to the Government of the United States its most enthusiastic congratulations for the brilliant success achieved at Paris on behalf of world peace.

Please accept et cetera. Signed Augusto C. Coello, Acting Minister for Foreign Affairs."

SUMMERLIN

711.60112Anti-War/1 : Telegram

The Minister in Latvia (Coleman)⁴⁰ to the Secretary of State

RIGA, September 4, 1928—4 p. m.

[Received September 4—12:14 p. m.]

72. Estonian Minister at Riga informed me yesterday that Estonia would adhere to the Kellogg Peace Pact. Formal letter of adherence to follow.⁴¹

COLEMAN

⁴⁰The Minister in Latvia was also accredited to Estonia and Lithuania.

⁴¹Law of adherence was voted by the Estonian Parliament Feb. 8, 1929, becoming effective Feb. 25, 1929. Text transmitted to the Department in despatch No. 299, Feb. 21, 1929, from the consul at Tallinn; not printed (file No. 711.60112 Anti-War/12).

711.50 a 12Anti-War/4

*The Ambassador in Belgium (Gibson)*⁴² to the Secretary of State

No. 11

BRUSSELS, September 4, 1928.

[Received September 17.]

SIR: Confirming my telegram No. 56, September 1, 1 p. m.,⁴³ reporting the Luxemburg Government's decision to adhere to the General Pact for the Renunciation of War, I have the honor to enclose a copy and translation of a note from the Minister of State, dated August 29, 1928, informing me of this decision.

I have [etc.]

HUGH GIBSON

[Enclosure—Translation]

The Luxemburg Minister of State (Bech) to the American Ambassador in Belgium (Gibson)

LUXEMBURG, August 29, 1928.

MR. AMBASSADOR: On August 28 Your Excellency did me the honor to hand over to me personally, with your letters Nos. 39 and 40 of August 27, the invitation from the United States to adhere to the Pact for the Renunciation of War as an instrument of national policy.

Hereby I hasten to inform Your Excellency that the Grand-ducal Government, faithful to the pacific aspirations of the Luxemburg people and to the constitutional traditions of its foreign policy, gives its adhesion to the Pact signed at Paris on August 27.

As soon as the project of law carrying the ratification of this adhesion will have been approved by the legislative power which will be informed thereof immediately, the Grand-ducal Government will transmit the instrument of adhesion to Washington.

I desire to renew to Your Excellency the sentiments of gratitude and pride which the Grand-Duchy feels in being associated to the great peace work due to the generous initiative of the Government of the United States and of France. I beg Your Excellency to be the interpreter of these sentiments to the Government of the United States, and more specially to His Excellency the Secretary of State, Mr. Kellogg.

Kindly accept [etc.]

BECH

⁴² Also accredited as Minister to Luxemburg.⁴³ Not printed.

711.5212Anti-War/46

The Ambassador in Spain (Hammond) to the Secretary of State

No. 1018

SAN SEBASTIAN, *September 4, 1928.*

[Received September 17.]

SIR: I have the honor to transmit herewith a copy and translation of a note under date of August 30th last from General Primo de Rivera in reply to the note which I delivered to him on August 28th last, No. 602, dated August 27, 1928, in accordance with the Department's telegraphic circular instruction dated August 27, 1928, at Paris.

As the Department will observe, General Primo de Rivera although expressing sympathy with the aims of the anti-war pact, has refrained from committing himself as to when Spain will adhere.

I have been reliably informed that it is the intention of the President⁴⁴ to adhere to the treaty at some future time, but to defer this action for the present in order to avoid hurting the susceptibilities of the Latin-American republics, and in particular of the Argentine, which country is reported to have refused to adhere to the anti-war treaty. Such articles as the interview given to the press by Señor Fernandez Medina, Uruguayan Minister at Madrid, reported in the Embassy's despatch No. 1007 dated August 21, 1928,⁴⁵ as well as several other articles from Latin-American sources hostile to the pact, have undoubtedly been effective in causing General Primo de Rivera to postpone Spain's adhesion.

I have [etc.]

OGDEN H. HAMMOND

[Enclosure—Translation]

The Spanish Minister for Foreign Affairs (Estella) to the American Ambassador (Hammond)

No. 267

SAN SEBASTIAN, *August 30, 1928.*

EXCELLENCY: I have received Your Excellency's courteous note of the 27th inst. in which you were good enough to transcribe the text of the treaty signed in Paris on that date by the Governments of South Africa, Germany, Australia, Belgium, Canada, Czechoslovakia, France, Great Britain, Italy, Ireland, India, Japan, New Zealand, Poland and the Government which Your Excellency so worthily represents, and by reason of which, war is renounced as an instrument of national policy, those Governments undertaking to employ peaceful means for the solution of all difficulties which may arise between them.

In the note above acknowledged, Your Excellency details the history of the negotiations which preceded the signing of the above mentioned

⁴⁴ President of the Council of Ministers, office held by General Primo de Rivera, Marqués de Estella, who was also Spanish Minister for Foreign Affairs.

⁴⁵ Not printed.

pact, transmitting likewise a bulletin containing the diplomatic correspondence exchanged for that purpose, and finally in accordance with Article 3 of the Agreement under instructions from the Government of the United States, Your Excellency informs me that the pact will be open to the adhesion of all countries in the world as soon as it has entered into effect, once it has been ratified by the signatory nations, that such adhesions are to be made at Washington, and that the signatory nations have hoped and desired that the multilateral treaty signed in Paris may become a World pact.

In thanking Your Excellency for transmitting the amiable sentiments which Your Government expresses, echoing those of all the other countries that have signed the anti-war pact, I wish to express the sympathy with which Spain's government, and I personally, have regarded this new step toward World peace consecrating the employment of procedure and measures of an anti-bellucose nature for the solution of international difficulties and conflicts; in the hope that through successive ratifications it may enter into effect as soon as possible, and that through the adhesion of all civilized countries the pact may have a universal force, Spain intending not to remain behind any country in expressing at the opportune moment the will and desire of the Spanish people regarding ideas for which the Government over which I preside has labored since its accession to power and for which it proposes to work.

I avail myself [etc.]

MARQUÉS DE ESTELLA

711.1712Anti-War/3

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 789

MANAGUA, September 4, 1928.

[Received September 24.]

SIR: I have the honor to report that the Department's circular telegram of August 27th, 1 P. M.,⁴⁶ stating that the Treaty for the Renunciation of War had been signed on that date was received at this Legation late in the evening of the same day. The note referred to in the Department's circular telegram of August 16th, 12 midnight, was duly handed to the Acting Minister for Foreign Affairs on August 28th. I have the honor to transmit herewith the Nicaraguan Government's reply dated August 30th.

It will be noted that this reply states that the Nicaraguan Government adheres gladly to the Treaty referred to although this adherence is *ad referendum* pending the constitutional approval of the Congress. I understand, however, that the Government is now preparing a formal Presidential decree providing for the adherence of

⁴⁶ See footnote 24, p. 158.

Nicaragua to the Treaty and that this decree will be issued in the near future.⁴⁷ I have therefore refrained from advising the Department by telegraph of the attitude of the Government pending the issuance of this decree.

The Nicaraguan Government had at first intended to propose to the Congress at its next session that Nicaragua adhere to the Treaty in order that definite final action might be taken at that time. Upon learning from cabled press despatches, however, that the majority of the other Governments of the world were adhering to the Treaty at once the Nicaraguan Government decided to take immediately such action as lay within the province of the Executive.

I have [etc.]

For the Minister:

DANA G. MUNRO

[Enclosure—Translation⁴⁸]

The Nicaraguan Acting Minister for Foreign Affairs (Pasos) to the American Minister (Eberhardt)

No. 497

MANAGUA, August 30, 1928.

EXCELLENCY: Agreeably impressed by the reading of the treaty for outlawing and condemning war, of which Your Excellency was so kind as to send this Ministry two copies, one in English and the other in French, and especially by the fact that the said treaty was recently signed in Paris, I address the present note to Your Excellency to congratulate the Government of the United States of America, through the worthy channel of Your Excellency, in the name of my Government, and on particular instructions from His Excellency President Adolfo Díaz, on the important and far-reaching diplomatic triumph thus attained, which will undoubtedly result in every benefit for the interests of the human race.

The noble ends sought in the treaty referred to in condemning war and renouncing it as an instrument and recourse of international policy cannot but win the approval and praise of all the nations of the world and particularly of small nations like ours; and it is by reason of the above that Nicaragua joyfully adheres to the said treaty, as my Government is completely in accord with its text, as signed at Paris and recorded in the English and French copies transmitted by Your Excellency; it being understood that this adherence is *ad referendum*, that is, subject to the constitutional approval of the Congress of the Republic, to which it will be submitted at the next session and by which approval undoubtedly will immediately be granted.

CÉSAR PASOS

⁴⁷ Decree issued Sept. 5, 1928 (file No. 711.1712Anti-War/4).

⁴⁸ File translation revised.

711.8312Anti-War/12

The Chargé in Egypt (Winship) to the Secretary of State

No. 30

BULKELEY, *September 4, 1928.*

[Received September 26.]

SIR: I have the honor to confirm my cable of September 3, 6 P. M., No. 35,⁴⁹ to the effect that the Egyptian Government has by an official Note adhered to the Multilateral Treaty for the Renunciation of War. The Note, with translation, is enclosed herewith, and is self explanatory, but it is of interest and important to note that in handing same to me the Minister of Foreign Affairs drew special attention to the fifth paragraph which does not admit or recognize the possible insertion or application of any reservation whatsoever as regards Egypt.

The Minister of Foreign Affairs asked me not to cable this but to make it plain in my despatch that Egypt adhered to the Treaty as signed in Paris without admitting any possible British reservation.

The text of the enclosed Note will be given to the local press today. Clippings for this week on the pact will be included in the Press Report unless something of exceptional importance appears.

I have [etc.]

NORTH WINSHIP

[Enclosure—Translation]

The Egyptian Minister for Foreign Affairs (Afifi) to the American Chargé (Winship)

No. 6. R. 14/6

BULKELEY, *3 September, 1928.*

MR. CHARGÉ D'AFFAIRES: I have the honor to acknowledge the receipt of your Note of the 27th of August by which you have been so kind as to inform me of the signature, at Paris on the same day, of the Treaty solemnly proclaiming the abolition of war as an instrument of national policy, and to transmit to me with the text of the Treaty the invitation of the Government of the United States to adhere to it.

Confident of being the faithful interpreter of the sentiments of the Egyptian people, the Royal Government takes pleasure to express to you its most hearty approval of the lofty purpose which led the Government of the United States to propose and conclude in the form of a Multilateral pact, the Treaty carrying the renunciation of war as an instrument of national policy. It renders homage to the untiring activity of the Government of the United States and to its high authority as well as to the invaluable co-operation of the other Great Powers which have succeeded in transforming the beneficent idea that war is beyond the law—to an international obligation.

⁴⁹ Not printed.

The Egyptian Government is pleased at the offer which has been so cordially extended to it to bring its own assistance to this great and generous enterprise and to assist in this way to assure the universality of the Treaty.

It has even more the sincere desire and the indefectible wish that peace is for Egypt not only a national temperament but even a necessity for preservation. The renunciation by her as well as by the other signing States or adherents to the pact of war as an instrument of national policy would be for Egypt the best guaranty of security and the beginning of the development in order and progress.

It is for this reason the Egyptian Government declares fully to adhere to the pact just as it was signed at Paris, without this adherence at any time being construed as an admission of any reserve whatever made on the subject of this pact.

The Egyptian Government is convinced that the new Treaty will establish solid foundations for peace and security of the world, that it will lead to greater solidarity among the people and in consequence a fertile co-operation for the progress of humanity and finally that it will profoundly and favorably influence international relations.

Be so kind [etc.]

H. AFIFI

711.3512Anti-War/8

The Ambassador in Argentina (Bliss) to the Secretary of State

[Extracts]

No. 378

BUENOS AIRES, *September 4, 1928.*

[Received September 28.]

SIR: Confirming my telegram No. 56 of August 31, 12 midnight,⁵⁰ quoting in translation the note received that day from the Minister for Foreign Affairs acknowledging the receipt of the one I handed him in accordance with the Department's circular telegram of August 16, 12 midnight, relative to the signing of the Multilateral Anti-War Treaty, I have the honor to transmit herewith a copy of the said note, together with a translation.

I have the further honor to transmit a number of newspaper editorial comments on the Multilateral Treaty, some accompanied by translation and others by brief summaries.⁵⁰

As the Department's circular instruction of August 16 gave no instruction or intimation that I was to do more than deliver its note to the Minister for Foreign Affairs, I have refrained from urging the Minister to act favorably on the opportunity offered to become a party

⁵⁰ Not printed.

to the treaty, but I have advanced the obvious arguments in favor of Argentina's adhering to it. However, in conversation with various prominent Argentines, who have brought up the subject, I have called attention to the statement in Dr. Gallardo's note in answer to mine (both of which have been published here) that the principle of the pacific settlement of international conflicts has always inspired the conduct of Argentina in its foreign relations, and I have expressed the opinion that failure to adhere to the treaty would appear to be a negation of that very principle which the Minister has emphasized.

I shall continue to keep the Department informed of any further important developments regarding the Multilateral Treaty, but I have no expectation that anything further will be done by this Administration, unless the Argentine Congress should take the initiative in requesting information on the matter.

I have [etc.]

ROBERT WOODS BLISS

[Enclosure—Translation]

*The Argentine Minister for Foreign Affairs (Gallardo) to the
American Ambassador (Bliss)*

BUENOS AIRES, August 31, 1928.

MR. AMBASSADOR: I have the honor to acknowledge the receipt of your note No. 124, of the 27th instant, in which Your Excellency kindly informed me that the Governments of Germany, the United States of America, Belgium, France, Great Britain, Canada, Australia, New Zealand, the Union of South Africa, the Irish Free State, India, Italy, Japan, Poland and Czechoslovakia had signed that day a Treaty which obligated them to renounce war as an instrument of national policy in the relations between them, and to secure only by pacific means the arrangement or solution of all differences which might arise between them. Your Excellency was also good enough to communicate to me officially the text of the said Treaty, in Article 3 of which there is decreed the manner and conditions of adhesion for those countries which were not original signatories thereof.

The Argentine Government is pleased to take note of the auspicious act by which there has been consecrated in a treaty of this importance the principle of the pacific settlement of international conflicts, which has always inspired the conduct of the Argentine Republic in its foreign relations.

The Executive Power will hasten to inform Your Excellency of the resolution which may be adopted regarding the said treaty, which it will consider with the sympathy and interest which our country has professed for all initiatives tending to the maintenance of peace.

I renew [etc.]

ANGEL GALLARDO

711.5312Anti-War/9

The Chargé in Portugal (Andrews) to the Secretary of State

No. 2377

LISBON, *September 5, 1928.*

[Received September 18.]

SIR: With reference to the Legation's telegram No. 34 of September 1 and preceding despatch No. 2375 of August 29,⁵² in respect of the Note delivered to the Portuguese Government on the Treaty for the renunciation of war as an instrument of national policy, I have the honor to enclose herewith the original and a translation of a note from the Ministry of Foreign Affairs dated August 31, received September 1, 1928, giving the definite adherence of the Portuguese Government to the Treaty. I am sending the original in view of the exceptional importance of the Note, a copy being retained in the Legation files.

I have the honor to report that the government has made no public pronouncements on the Treaty and that no editorial comments have appeared in the leading newspapers here subsequent to the publication of the Note, the press having confined itself to quotations from the Parisian papers.

I have [etc.]

WM. WHITING ANDREWS

[Enclosure—Translation]

*The Portuguese Minister for Foreign Affairs (Rodrigues) to the American Chargé (Andrews)*LISBON, *August 31, 1928.*

MR. CHARGÉ D'AFFAIRES: Having acquainted His Excellency the President of the Portuguese Republic with the text of the Treaty for the renunciation of war as an instrument of national policy, which you did me the honor to deliver, for which I have already thanked you by my note of the 28th instant,⁵³ I have now the greatest satisfaction in being able to inform you that the Portuguese Government, in full accord with the spirit and wording of that Treaty, gives to it its entire adhesion.

I avail myself [etc.]

DR. BETIENCOURT RODRIGUES

⁵² Neither printed.⁵³ Department of State Publication No. 468, *Treaty for the Renunciation of War*, p. 251.

711.7412Anti-War/8

The Minister in Bulgaria (Wilson) to the Secretary of State

No. 1320

SOFIA, September 5, 1928.

[Received September 26.]

SIR: Referring to the Legation's Despatch No. 1315 of the third instant and confirming the Legation's telegram No. 21 of to-day's date,⁵⁴ I have the honor to enclose, herewith, a translation of the note from the Minister for Foreign Affairs accepting the invitation extended to Bulgaria to become a signatory of the Anti-War Pact signed at Paris on August 27, 1928.

I also have the honor to enclose, herewith, a number of translations from the newspapers commenting upon the adhesion of Bulgaria to the pact.⁵⁵

I have [etc.]

CHARLES S. WILSON

[Enclosure—Translation]

The Bulgarian Minister for Foreign Affairs (Bouroff) to the American Minister (Wilson)

No. 9480 I

SOFIA, September 5, 1928.

MR. MINISTER: I have the honor to acknowledge the receipt of your Note No. 727, dated August 27th, in which Your Excellency was so kind as to notify me of the signature at Paris of the Treaty for the renunciation of war, and enclosing at the same time the text of this Treaty, to be submitted to the examination and approval of the Royal Government.

In thanking you for your kind communication, I hasten to inform Your Excellency that the Council of Ministers, at its meeting yesterday, unanimously approved the adherence of Bulgaria to the above mentioned Treaty, in accordance with paragraph 2 of Article 3.

The Bulgarian representative at Washington will shortly receive the necessary instructions on this subject, and all the formalities, prescribed by the laws in force in the Kingdom for such cases, will be carried out with the least possible delay.

I avail myself [etc.]

A. BOUROFF

⁵⁴ Neither printed.⁵⁵ These enclosures not printed.

711.60 m 12Anti-War/1 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, September 6, 1928—3 p. m.

[Received 3:18 p. m.]

88. My Lithuanian colleague called this morning to present to me a note from Premier Voldemaras to the Secretary of State by which Lithuania adheres to the Kellogg Pact. The Lithuanian Minister explained that since the Premier was now in Geneva he requested me to transmit this message rather than sending it through Mr. Coleman in order to have it reach Washington at the earliest possible moment. He added that under their form of government a decision by the Cabinet is sufficient for adherence and it is not necessary that Parliament ratify it. Mr. Voldemaras will hand the document to the press on the morning of Saturday the 8th instant. Original text in French, translation follows:

“Kovno, September 5, 1928.

Mr. Secretary of State: Your Excellency's proposal, dated August 27th last, to adhere to the Pact for the Renunciation of War as an instrument of national policy has been submitted to a thorough examination by the Lithuanian Government.

I am happy to be able to communicate to Your Excellency that on the 28th of August the Government of the Republic instructed me to notify the Government of the United States of its complete approval and adherence to the said Pact. The Lithuanian Government does this with the more readiness in that Lithuania from the moment of the rebirth of its independent existence in 1918 instituted a policy of peace.

Thus the Lithuanian Government succeeded in inserting in the treaty of peace concluded with Russia at Moscow on July 12, 1920,⁶⁶ a clause (article 5) recognizing the permanent neutrality of Lithuania. Russia declared itself ready to participate in international guarantees of this neutrality if the other great powers likewise recognized and guaranteed it.

The same policy of peace has been followed toward Poland in spite of the Polish efforts to prevent Lithuania from becoming an independent state. The treaty of Suwalki, October 7, 1920,⁶⁷ contains a provision for the determination of the frontiers between the two states and for the solution exclusively by peaceful methods of all problems existing between Lithuania and Poland.

Unfortunately on October 9, 1920, Poland violated this treaty by occupying the Lithuanian capital Vilna. In spite of repeated requests of the Lithuanian Government for the fulfillment of the convention, the Polish Government has refused to do so and has rejected the Lithuanian proposal to submit the matter to the Permanent Court of International Justice at The Hague.

⁶⁶ League of Nations Treaty Series, vol. III, p. 105.

⁶⁷ *Ibid.*, vol. VIII, p. 173.

At the present moment a third of the territory ceded by Russia to Lithuania by the treaty of peace is held by the Poles.

Nevertheless the Lithuanian Government has maintained its faith in a peaceful solution of the question of Vilna in reparation for the damages caused Lithuania by Poland. Its faith is strengthened by the signature of the Kellogg Pact between different states of the Globe. There is ground for hope that shortly this Pact will become the guiding principle of the entire World.

Finally the Lithuanian Government is profoundly convinced that the signature of the Pact for the Renunciation of War is only the first step toward the organization of world peace.

Accept, et cetera. Signed Professor A. Voldemaras, President of the Council, Minister of Foreign Affairs."⁵⁸

Copy to Legation at Riga. Original text by mail.

WILSON

711.3112Anti-War/3

The Venezuelan Minister (Grisanti) to the Acting Secretary of State

[Translation]

No. 398

WASHINGTON, September 6, 1928.

EXCELLENCY: I have the honor to inform Your Excellency that, according to a cablegram received from my Government yesterday, Venezuela adheres to the General Agreement for the Renunciation of War signed in Paris the 27th of last August.

Allow me, Your Excellency, in making this announcement, to express the deep pleasure which I feel since the Agreement in question, wherein the individuality of His Excellency, Mr. Kellogg, stands forth in such relief in the faithful interpretation of high American ideals, is a great benefit, being an unequivocal pledge of national security.

I take [etc.]

CARLOS F. GRISANTI

711.6812Anti-War/10

The Chargé in Greece (Goold) to the Secretary of State

No. 663

ATHENS, September 6, 1928.

[Received September 19.]

SIR: Adverting to your circular instruction of August 16, 11 P. M., containing the text of the note concerning the signing of the Peace Pact at Paris which I duly handed to the Under Secretary of Foreign Affairs (in absence of the Minister) on the morning of August 28th,

⁵⁸ Subsequently the Lithuanian Minister in the United States stated that the above note was "merely a notification to the United States of the intention of the Lithuanian Government to adhere" to the treaty, and that his Government proposed to transmit "a formal declaration of adherence in due form as soon as the treaty has come into force through ratification by the signatory powers." (File No. 711.60m12 Anti-War/5.)

I have the honor to enclose copies and translations of Foreign Office note No. 9690 of August 31, in which it appears that as soon as the Chamber of Deputies convenes, the President of the Republic will request its authorization to adhere to the Treaty.

I furthermore have the honor to forward translations of articles which appeared in the Athens press concerning the signing of the treaty⁵⁹ and to report that in general the signature is welcomed as the creation of another obstacle to war in the efficacy of which there is more hope than confidence.

In diplomatic circles here which may or may not reflect opinion of the respective countries, only the Italians seem to have an expectation bordering on hope that the Treaty will fail. To them it seems to be the attempt of the satiated powers to preserve what they have, nearly all of which was won by war; to make it disreputable for anyone ever to dispossess them of their vast war got gains. For the next fifteen or twenty years, so an Italian colleague of mine states, Europe will feel the fatigues of 1914-18 to such a degree that Treaty or no Treaty, there will be no danger of war between the major powers. But during this period, there will be an accumulation of wealth, a new generation will come to the front and the equilibrium will become unbalanced. Some nations will feel themselves stronger than others and will resent the possession by the others of colonies, protectorates, mandates, and influence. And, of course, these other nations will not offer to share any of their patrimony with the rising young peoples. And so a condition will arise when the growing communities will have to decide whether to submit to the arrest of their development, or fight. They will, of course, adopt the second alternative. And it is well that they will do so, for peace under such circumstances degenerates into mere stagnation whereas struggle so sharpens man's wits and capabilities that it is positively worth the temporary destruction of wealth entailed. Good, sound von Bernhardt doctrine, clearly expounded in the General's remarkable book which appeared sometime in 1912-13. It may be worth while to observe to what an extent such doctrine is taking hold of Italian youth.

I have [etc.]

H. S. GOOLD

[Enclosure—Translation]

The Greek Minister for Foreign Affairs (Carapanos) to the American Chargé (Goold)

No. 9690

ATHENS, August 31, 1928.

MR. CHARGÉ D'AFFAIRES: I have the honor to acknowledge the receipt of your note of August 27, in which you were good enough to inform me in the name of the Government of the United States of

⁵⁹ Articles not printed.

America that the Governments of Australia, Belgium, Canada, Czechoslovakia, France, Germany, Great Britain, India, Ireland, Italy, Japan, New Zealand, Poland, South Africa and the United States of America had signed on the same day at Paris a treaty by which they renounce war as an instrument of national policy in their mutual relations and recognize that the settlement or the solution of all differences which arise between them should be settled by pacific means.

Furthermore, you were good enough to draw the attention of the Government of the Republic to Article III, Paragraph 2, according to which the treaty is open to the adhesion of all the other powers of the world.

The Hellenic Government is happy to note that the high pacific purposes which brought about the conclusion of the treaty are the same as those which constitute the basis of its own efforts.

Consequently, I have the honor to inform you, in the name of my Government, that it will hasten to adhere to the treaty signed at Paris at the noble initiative of the Government of the United States of America. To that end, the President of the Hellenic Government will ask the Chamber of Deputies for the necessary authorization immediately after it convenes.

Accept [etc.]

For the Minister.

The Director General

M. TSAMADOS

711.2212Anti-War/2

The Minister in Ecuador (Bading) to the Secretary of State

[Extract]

No. 1149

QUITO, *September 6, 1928.*

[Received October 6.]

SIR: With reference to Legation's despatch No. 1145 of August 30, 1928,⁶⁰ in which the Department was informed of the delivery to the Minister of Foreign Relations, on August 28th, of the formal note announcing the signing on August 27th, in Paris, of the Multi-lateral Treaty to Renounce War by the interested powers.

I have the honor to report that the Legation received on August 31st the answer from the Ecuadoran Government signed by Homero Viteri Lafronte, Minister of Foreign Relations (copy and translation hereto attached).⁶¹

⁶⁰ Not printed.

⁶¹ Department of State, *Treaty for the Renunciation of War*, p. 164.

It will be noted that the Minister of Foreign Relations merely acknowledges receipt of the Legation's note without in any way committing himself as to the possible attitude the Ecuadoran Government will assume in the matter.

As both the Minister of Foreign Relations as well as President Ayora, with whom the American Minister had the opportunity of discussing the treaty in an informal manner, expressed themselves as greatly interested and in terms laudatory of the treaty, it is to be presumed that Ecuador will sooner or later also become an adherent of the treaty, awaiting merely the action which other Latin American countries will take.

Of interest, however, in this connection is an editorial which appeared in "El Telégrafo" of Guayaquil, the leading newspaper of Ecuador.

The writer of the editorial apparently has not analyzed the treaty very carefully but is mainly interested in the fact that Latin American countries did not participate in the preliminary discussion and in the signing of the treaty.

He interprets this as due to a desire of preventing the treaty from being influenced by the "Latin American tendency to make the Great Powers respect its rights" and calls it "a grotesque imposition, incompatible with the dignity and equality of the nations."

The writer then makes reference to the Peruvian-Ecuadoran boundary difficulties and points out the desirability of obtaining from the United States Government the promise to interpose its good offices for the pacific solution of that controversy and finally advocates that Ecuador adhere to the treaty "ad referendum", subject to the approval of the Legislative Power.

The editorial is as follows:

[Here follows translation of the editorial.]

I have [etc.]

G. A. BADING

711.1412Anti-War/1 : Telegram

The Chargé in Guatemala (Hawks) to the Secretary of State

GUATEMALA, September 7, 1928—10 a. m.

[Received 1:10 p. m.]

109. Department's circular of August 16, midnight. Note received from the Foreign Office⁶² states in part that the Government of Guatemala "accepts in principle all the bases of the Anti-War Treaty to which it will adhere opportunely in conformity with the conditions of the Pact itself."

HAWKS

⁶² Department of State, *Treaty for the Renunciation of War*, p. 183.

711.60 h 12Anti-War/11

*The Minister in the Kingdom of the Serbs, Croats and Slovenes
(Prince) to the Secretary of State*

No. 485

BELGRADE, *September 7, 1928.*

[Received September 21.]

SIR: Referring to the Legation's telegrams No. 17, August 30, 11 a. m. and No. 18 of August 30, 7 p. m.,⁶³ I have the honor to report that in accordance with the Department's circular telegram of August 16, 11 p. m., I delivered on August 28th to the Acting Minister of Foreign Affairs, Mr. Šumenković, the note dated August 27, 1928, informing the Yugoslav Government that the multilateral anti-war treaty had been signed at Paris. I had in the meantime informally acquainted the Minister with the contents of the note.

This act was given wide publicity and was favorably received by all sections of the press. The only exception to the general approval of the Treaty was the construction placed on the Foreign Minister's comment by Mr. Pribičević, as reported in Legation's Despatch No. 486 of September 7, 1928.⁶⁴

On August 30th, the Acting Foreign Minister handed me the Government's formal reply in French, a copy of which is transmitted herewith (the slight grammatical errors appeared in the original).

It will be observed from the enclosed translation of the note that the Government, after referring to its right of self-defense, its international obligations, and its duties towards the League of Nations, states that the Kingdom of the Serbs, Croats and Slovenes will adhere to the Treaty as soon as the necessary formalities can be completed.

I have [etc.]

JOHN DYNELEY PRINCE

[Enclosure—Translation]

*The Acting Minister of Foreign Affairs of the Kingdom of the Serbs,
Croats and Slovenes (Shumenkovitch) to the American Minister
(Prince)*BELGRADE, *August 30, 1928.*

MR. MINISTER: Acknowledging the receipt of your note of the 27th instant in which you were good enough to inform me formally of the signature of the Renunciation of War Treaty and to communicate the text of that Treaty for the consideration and eventual approval of the Serb-Croat-Slovene Government, I hasten to inform you that the Royal Government has taken cognizance of this act with a feeling of great sympathy.

⁶³ Neither printed.⁶⁴ Not printed.

The formal engagement to renounce war as an instrument of national policy, which is incorporated in the Treaty, corresponds entirely to the principles which, according to the conceptions of the Government of the Kingdom of the Serbs, Croats and Slovenes ought to govern international relations.

Recognizing the great purport of this solemn declaration which has already received the signatures of numerous States and which is destined to receive the adhesion of the enormous majority if not all of the Powers of the World, the Royal Government desires to pay respectful homage to the great American Republic and to the promoters of this new and noble effort to guarantee Peace and to thank them for the opportunity offered to the Kingdom of the Serbs, Croats and Slovenes to take a part in it.

The Royal Government accordingly entirely approves of the Renunciation of War Treaty signed in Paris on August 27th, 1928, and it will not fail to give its formal adhesion to it as soon as it is in a position to do so under the terms of Article 3 of the said Treaty.

Besides the text of the Treaty, Your Excellency was good enough to transmit to me with your letter a white book reproducing the correspondence exchanged between the Contracting States upon the occasion of the preparation of the conclusion of the Treaty and containing the views of those States on the exact sense and significance of the text of the Treaty.

It is particularly agreeable to me to be in a position to assure Your Excellency that the Royal Government shares these views. More particularly, it is in accord with the idea that the Treaty, while having for its object the maintenance of peace, does not deprive the contracting parties of the right of protection against an attack or invasion (it being understood that it is the competence of the attacked State to decide whether the circumstances demand the resort to war for its own protection), as well as that it completely frees the Contracting States from any party who might violate the Treaty.

The Royal Government also shares the opinion that the Treaty is regarded as an instrument whose object is to perpetuate the pacific and friendly relations under the contractual conditions established to-day and that nothing in this Treaty is intended to be interpreted contrary to the Covenant of the League of Nations, the agreements of Locarno or against the Treaties of Neutrality, or in general against the international obligations which the Kingdom of the Serbs, Croats and Slovenes has thus far contracted.

I am grateful to you for the indications contained in your note regarding the procedure to be followed for adherence to the Treaty,

which procedure the Royal Government will not delay in following so as to carry out immediately its very strong desire to participate in this act of reinforcing peace.

Accept [etc.]

I. SHUMENKOVITCH

711.6712Anti-War/14

The Ambassador in Turkey (Grew) to the Secretary of State

No. 474

CONSTANTINOPLE, *September 7, 1928.*

[Received September 26.]

SIR: With reference to my telegram No. 106 of September 7, 1:00 P. M. [12:00 M]⁶⁵ transmitting translation of a note from the Minister for Foreign Affairs announcing Turkey's adherence to the Multilateral Pact for the Renunciation of War, without reservation, I have the honor to transmit herewith copy with translation of Foreign Office Note 47668-26, dated Angora September 6, 1928, on which my telegram was based.

I have [etc.]

JOSEPH C. GREW

[Enclosure—Translation]

The Turkish Minister for Foreign Affairs (Rouschdy) to the American Ambassador (Grew)

No. 47668-26

ANGORA, *September 6, 1928.*

MR. AMBASSADOR: I have had the honor to receive the two Notes dated August 27, 1928 and numbered 51 and 52, which you were so good as to address to me in order to advise me of the signature at Paris of the Multilateral Treaty for the Renunciation of War as an instrument of national policy among the Governments of Australia, Belgium, Canada, Czechoslovakia, France, Germany, Great Britain, India, the Irish Free State, Italy, Japan, New Zealand, Poland, South Africa and the United States of America.

Your Excellency who transmits to me in your Notes the text of the aforesaid Multilateral Treaty as well as the complete dossier of the correspondence on this subject, exchanged among the participant States, is desirous of submitting the Treaty to the approval of the Government of the Republic for the purpose of its adhesion should it so desire.

My Government has devoted very special attention to the study both of the signed text of the Multilateral Treaty and of the pertinent dossier. Moreover, since the time of the proposal of the plan by the distinguished Secretary of State of the United States of America, Turkey, to whose eminently pacific policy this proposition was wholly

⁶⁵ Not printed.

in conformity, followed with great sympathy the development of the negotiations which it was sincerely desirous of seeing successfully concluded.

In consequence, considering that the neutrality treaties between Turkey and other States harmonize in spirit and in letter with the aim and object of the treaty which you submit for our approval, and, on the other hand, being in perfect accord with the explanations supplied by the American Note of June 23, 1928, with reference to the correspondence exchanged between the Government of the United States and those of the other States, Turkey agrees to sign without reservation the Multilateral Pact for the Renunciation of War of August 27, 1928, which harmonizes with its pacific viewpoint, and it declares that it considers itself reciprocally bound by the text of the proposed Act apart from all documents which have not been submitted as an integral part of the Pact to the collective signature of the participating States.

Accordingly, I hasten to apprise your Excellency that powers necessary for the signature have been conferred on our Ambassador at Washington.

Accept [etc.]

DR. ROUSCHDY

711.2512Anti-War/7

The Ambassador in Chile (Culbertson) to the Secretary of State

No. 14

SANTIAGO, September 8, 1928.

[Received October 3.]

SIR: Referring to my telegram No. 97 of September 6, 11 a. m.⁶⁰ indicating the nature of the reply of the Chilean Government to the invitation to adhere to the Multilateral Anti-War Treaty, I have the honor to transmit herewith copies and translation of the reply of the Minister of Foreign Affairs.

In making this noncommittal reply, the Chilean Government followed the lead of what it believes to be the policy of Brazil and Argentina. I have detected no resentment among the Chilean officials of the fact that this Government was not invited to be one of the original signers of the Anti-War Pact. If it were not for the vague feeling that Chile should orient its policy in accordance with what is believed to be the common interest of the A. B. C. powers, the Chilean Government, I believe, would have adhered to the Anti-War Pact immediately and as a matter of course. As I have said, there is a tendency here in spite of the recognized difficulties, to develop an

⁶⁰ Not printed.

entente with Bolivia and Peru but it no doubt seemed premature to follow these countries in a declaration in favor of immediate adhesion to the Anti-War Pact. However, it seems clear that as soon as ratification of the Anti-War treaty by all the original signatories becomes evident, the Chilean Government will adhere. In this connection, attention is called to the second paragraph of the enclosed note.

I have [etc.]

W. S. CULBERTSON

[Enclosure—Translation]

The Chilean Minister for Foreign Affairs (Gallardo) to the American Ambassador (Culbertson)

No. 6570

SANTIAGO, *September 5, 1928.*

MR. AMBASSADOR: I have the honor to acknowledge the receipt of your courteous Note of August 27th last, in which Your Excellency was good enough to inform my Government officially of the celebration of the Pact for the proscription of war that was on that date signed at Paris by Your Excellency's Government, together with Germany, Belgium, France, Great Britain, Canada, Australia, New Zealand, the Union of South Africa, the Irish Free State, India, Italy, Japan, Poland, and Czechoslovakia.

In accordance with Article III of the aforementioned Treaty, the text of which is included in Your Excellency's Note, the countries which, like Chile, have been invited to adhere to it may do so as soon as all the original signatories have ratified the Treaty and it becomes effective.

My Government is grateful for this communication and, in making note thereof with every interest, is pleased to request Your Excellency to communicate to Your Government and to the Secretary of State, Mr. Kellogg, its congratulations upon the success of the efforts which, for some time, have been made to bring about the realization of this memorable Pact, which is a new and valuable guarantee for the maintenance of international concord.

My Government has always lent with enthusiasm its adhesion to the policy of peace which progressively guarantees in the world its beneficent dominion, and has thus well manifested it by significant acts in dealing with all its foreign problems and by its prompt ratification of the Treaty to Avoid or Prevent Conflicts Between the American States, which my Government was pleased to subscribe to at the Fifth Pan-American Conference in Santiago, Chile.

I avail myself [etc.]

CONRADO RIOS GALLARDO

711.3912Anti-War/17

The Chargé in the Dominican Republic (Frost) to the Secretary of State

No. 1004

SANTO DOMINGO, *September 10, 1928.*

[Received September 19.]

SIR: Supplementing the Legation's despatch No. 999 of September 4, 1928,⁶⁷ relative to the invitation to the Dominican Government to adhere to the treaty of renunciation of war as an instrument of national policy, I have the honor to transmit herewith a translation of a note, under date of September 7, 1928, from the Secretary of State for Foreign Affairs, formally announcing the decision of his Government to adhere to the treaty.

I have [etc.]

FRANKLIN B. FROST

[Enclosure—Translation]

The Dominican Secretary of State for Foreign Affairs (Sánchez) to the American Chargé (Frost)

No. 262

SANTO DOMINGO, *September 7, 1928.*

MR. CHARGÉ D'AFFAIRES: I have the honor to acknowledge receipt of the note marked with number 124, of August 27th of the present year, by which, in the name of your Government, you transmitted to my Government for its consideration and approval, in case of agreement, the text of the treaty of renunciation of war as an instrument of policy in the relations of the states and which establishes the adjustment and solution of all disputes between states by pacific means.

My Government has given its best attention and its most careful study as well to your note already indicated as to the treaty, whose text is integrally published in the mentioned note, and I have received the charge of communicating to you the acceptance on the part of the Dominican Government of the terms of the treaty of renunciation of war signed in Paris on the 27th of August of the present year between the Governments of Germany, United States of America, Belgium, France, Great Britain, Canada, Australia, New Zealand, the Union of South Africa, the Irish Free State, India, Italy, Japan, Poland and Czecho-Slovakia.

The decision to accept the terms of said treaty and to adhere to it, *ad referendum*, will be submitted to the approval of the legislative chambers, at which time my Government will formally instruct our diplomatic representative in Washington to subscribe the act of adhesion.

In accepting the treaty of renunciation of war as a means for solving the conflicts between States, my Government is maintaining the

⁶⁷ Not printed.

invariable criterion of the Dominican Republic in this matter, which culminated and took form in Art. 100 of our political constitution which reads thus:

“The powers instituted by this constitution cannot declare war without previously proposing arbitration.

Paragraph. To guarantee this purpose, in all the international treaties which the Republic makes there shall be provided clauses relative to resolving every difference by means of arbitration.”

It is, then, for my Government a source of real satisfaction to adhere to the treaty of Paris of the date already indicated, which crystallizes the efforts of the world in the elimination of war as a means of adjusting and resolving the disputes between States.

I beg you to transmit to your Government the thanks which my Government expresses for the invitation contained in the note under reference, as well as the sympathy with which my Government has contemplated the valuable contribution which your Government has given to the work of the guarantee of the peace and of the progress of the world.

I welcome this opportunity [etc.]

RAFAEL AUG. SÁNCHEZ

711.3512Anti-War/9

The Ambassador in Argentina (Bliss) to the Secretary of State

No. 382

BUENOS AIRES, *September 10, 1928.*

[Received October 4.]

SIR: Referring to the closing paragraph of my despatch No. 378 of September 4, regarding the Argentine Government's attitude towards the Multilateral Treaty for the Renunciation of War, I have the honor to report that a resolution was introduced in the Senate on Thursday, September 6, by Señor Alejandro Ruzo, Senator from Catamarca, by the terms of which that body would inform the Executive of the satisfaction with which it would see Argentina adhere to the Multilateral Treaty and see her endeavor to render the treaty effective.

The text of the resolution (which was also signed by Senators Teófilo Sanchez de Bustamante, C. Vallejo and R. Gomez) and of the debate on the subject which followed its introduction, are transmitted herewith in copy and translation.⁶⁸

Although the discussion on the subject in the Senate is rather lengthy, it is important to transmit it in full that the Department may have accurate examples of two opinions held by Argentines regarding the Kellogg Pact which have a quite extensive support in Buenos Aires. I still find among those opposed to Argentina's ad-

⁶⁸ Not printed.

hering to the treaty an underlying but definite objection based on wounded feelings because their country was not included among the original signers.

Senator Ruza in presenting his resolution warmly advocated the adhesion of Argentina to the Treaty, and expressed surprise that there should be any hesitancy or delay on her part in joining the rest of the world in such an important effort to prevent war; he emphasized the pacific principles which Argentina had always advocated and upheld, and pointed out that it was not in accordance with her dignity or interest to be one of the last nations to signify its adhesion to the Treaty. He laid considerable stress on Article 27 of the Argentine Constitution on the necessity of maintaining relations of peace and commerce with foreign Powers by means of treaties, and drew attention to the liberality, clearness and superiority of the Argentine Constitution as compared with those of other Republics, even those established since the World War.

The motion of Señor Ruza was opposed by Dr. Molinari, Senator for the Federal District, who has proved himself in this, his first, session the most militant member of the Senate,—sometimes referred to as “L'enfant terrible du Sénat”. Nevertheless, importance must be given to the opinions expressed by Dr. Molinari on this occasion when he opened his remarks by saying that he spoke in the name of the Unión Cívica Radical, “in the name of the Government which was chosen at the elections of April 1,” and for the man who is about to assume the presidency. It cannot be conceived that Dr. Molinari would make such a statement without the authorization of Señor Irigoyen, and the Senator's opposition to the Pact and his reasons may, therefore, be a fairly definite indication of President Irigoyen's attitude towards the Multilateral Treaty. Whether the dislike of the United States which this speech reflects is only personal or whether it reflects the feelings of the new President, I am not at present prepared to say.

Dr. Molinari based his opposition on the necessity of a careful study of the reservations made in the preliminary negotiations of the Multilateral Treaty, on the Monroe Doctrine and the intervention of the United States in Nicaragua. He devotes much attention also to the failure of the United States to ratify the Treaty of Versailles, a point to which he attaches importance as indicating that Mr. Kellogg's main object in proposing and securing the signing of the Treaty was a purely internal political affair and was lacking in any form of sincerity. And he contends that there is no need for Argentina to sign any treaty to assure peace, for peace is understood by Argentina, war in itself is illegal and the only international conflicts in which Argentina has found itself in the past have been the

result "of a generous sentiment, a noble and lofty cause, the cause of America, the cause of humanity!"

The Senate, after debating the resolution of Señor Ruza, voted to refer the matter to committee before which the Minister for Foreign Affairs would be invited to appear to express the opinion of the Executive.

I have [etc.]

ROBERT WOODS BLISS

711.7512Anti-War/4

The Minister in Albania (Hart) to the Secretary of State

No. 520

TIRANA, September 13, 1928.

[Received September 26.]

SIR: Referring to my telegram No. 58 of September 8 [6], 1928,⁶⁹ I have the honor to enclose herewith copies of the Note of the Albanian Minister for Foreign Affairs expressing the desire of the Royal Government of Albania to adhere to the multilateral treaty against war.

I have [etc.]

CHARLES C. HART

[Enclosure—Translation]

The Albanian Minister for Foreign Affairs (Vrioni) to the American Minister (Hart)

No. 1875/III

TIRANA, September 8, 1928.

MR. MINISTER: In your Note numbered 203 and dated August 27 last, Your Excellency was pleased to communicate the text of the treaty for the renunciation of war as an instrument of national policy, signed on that same day at Paris, and asking me at the same time whether the Royal Government would be inclined to adhere to the said pact.

With very earnest thanks to Your Excellency for that important communication, I have the honor to inform you that the Royal Government, upon a very profound sympathetic examination of Your Excellency's note, as well as of the text of the treaty thereto annexed, deems it its duty to do homage to the generous thoughts which inspired the Government of the United States on proposing the said pact, and to join in the congratulations of that Government and of the other Powers signatory to the pact on that grand manifestation of concord and international brotherhood that is so conformable to the wishes and deep sentiments of the family of nations.

Albania, in view of its strong and constant attachment for the ideal of peace will deem herself very happy to join heartily in this great common undertaking destined to develop among the peoples the spirit of peace and to bring new obstacles in the way of war.

⁶⁹ Post, p. 847.

It is, therefore, with a very keen pleasure that I hasten to declare to Your Excellency that the Royal Government is ready to give its adhesion to the Multilateral Anti-war Treaty, and is instructing its Minister in Washington, Mr. Faik Konitza, to that effect.

I beg [etc.]

ILIAS VRIONI

711.1212Anti-War/5

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 970

MEXICO, September 14, 1928.

[Received September 20.]

SIR: Confirming my telegram No. 256, 3 p. m., of today's date,⁷⁰ reporting the receipt of a note from the Acting Minister of Foreign Affairs in answer to Ambassador Morrow's note of August 27th, 1928, inviting the adherence of the Mexican Government to the Multilateral Treaty for the Renunciation of War as an Instrument of National Policy, I have the honor to enclose a copy and translation of the Mexican note accepting this invitation.

I have [etc.]

For the Ambassador:

H. F. ARTHUR SCHOENFELD

[Enclosure—Translation]

The Mexican Acting Minister for Foreign Affairs (Estrada) to the American Ambassador (Morrow)

No. 12050

MEXICO, September 14, 1928.

MR. AMBASSADOR: I have received note No. 525 of August 27, last, in which Your Excellency was pleased to inform me that on that day the Governments of Germany, the United States of America, Belgium, France, Great Britain, Canada, Australia, New Zealand, South Africa, the Irish Free State, India, Italy, Japan, Poland and Czechoslovakia signed in Paris a treaty binding them to renounce war as an instrument of national policy in their relations with one another and to seek only by pacific means the settlement or solution of all disputes which might arise among them. Your Excellency goes on to state therein certain facts relating to the negotiations which led up to said Treaty and that the United States has been anxious from the beginning that no State should feel deprived of an opportunity to participate in the new treaty, and thus not only align itself formally and solemnly with this new manifestation of the popular demand for world peace, but also avail itself of the same benefits enjoyed by the original signatories, to which end there was included

⁷⁰ Not printed.

in the draft of the treaty proposed by the United States a specific provision for the participation in the treaty of any and every power desiring to identify itself therewith, which provision is found in the definitive instrument signed in Paris. It is likewise observed that the Powers signing the treaty have recorded in the preamble thereof their hope that every nation of the world will participate in the treaty and that in this connection Your Excellency is happy to be able to say that your Government has already received from several Governments informal indications that they are prepared to do so at the earliest possible moment.

Your Excellency adds that in view thereof you are pleased to communicate officially for my consideration and the approval of the Mexican Government the text of the treaty in question.

In reply and under instructions of the President of the Republic, I have the honor to advise Your Excellency, begging that you so inform the Government of the United States of America, that the Mexican Government has been following with the greatest interest the course of the negotiations which determined the conclusion of the treaty by which the signatory and adhering Powers condemn recourse to war for the solution of their international controversies and renounce war as an instrument of national policy in their relations with each other, binding themselves to seek only by pacific means the settlement or solution of all disputes or conflicts.

Such a high ideal, as accurately expressed in Your Excellency's note, is a manifestation of the popular demand for world peace, always recognized by the people and the Government of my country, which has never committed an act of warlike aggression against any nation, nor incited the thought of the Republic to war against any people.

Although this traditional conduct is universally recognized, I believe it opportune, nevertheless, to mention the attitude of Mexico, not long ago, in the matter of international war. During the International Meeting of Lawyers held in Rio de Janeiro in 1927,⁷¹ in discussing the matter of maritime neutrality, the Delegation of my country expressed itself in these words: "The project of maritime neutrality is accepted by the Mexican Delegation, because the policy of Mexico has always been not to intervene in armed conflicts except in case of provocation." At the same meeting, in discussing the subject of diplomatic missions, the Mexican Delegation asked that the word "war" be deleted from one of the clauses regarding the termination of diplomatic representations, which, after some opposition, was approved unanimously. Perhaps it was because of this that at the time of the Sixth International American Conference at Habana ⁷² the European press stated

⁷¹ *Foreign Relations*, 1927, vol. I, pp. 364 ff.

⁷² *Post*, pp. 527 ff.

that Mexico was the first country in America to advise the condemnation of war.

In the Sixth International American Conference held the beginning of the current year, Mexico expressed the same view as regards war. Thus, in discussing the project regarding Treaties in the session of February 11, one of the Delegates pointed out that said project was incomplete because it did not contain provisions relating to the endurance (*vigencia*) of treaties entered into prior to a war between two nations and presented at the same time a draft of several new articles; but the Mexican Delegation opposed the inclusion of said articles, declaring that war should be proscribed in America, and that all the international codification being elaborated at that time related to the International Law of peace; adding that it would create the worst kind of impression for the Conference to admit the possibility of an impending war. It will be recalled that in accordance with the opinion of Mexico, the proposal was withdrawn.

Mexico defined its attitude still further when its Delegation, in connection with article 13 of the same project, relative to the intervention on the part of a State responsible for the execution of a treaty, against one of the parties, declared that said article was not acceptable to this country because it could not admit the possibility of an intervention, stating in addition that Mexico only admitted war in self defense. And in signing the Convention in question, the Mexican Delegation made the reservation that under no circumstances did it accept said article 13.

The Delegation of my country likewise declared before the Commission on International Law that it was painful to observe that the Delegates of some American countries were considering the possibility of war, and, therefore, it proposed the following resolution, which was unanimously accepted by the Conference: ⁷³

“The Sixth International American Conference:

“WHEREAS:

“The American nations should always be inspired to unified coöperation with a view to justice and the general welfare;

“Nothing is so opposed to that coöperation as the use of violence;

“There is no international controversy, however serious, which can not be peacefully settled if the parties really desire to reach a peaceful solution;

“War of aggression is an international crime against the human race;

“BE IT RESOLVED:

“I. That all aggression be considered illegal and be therefore declared prohibited.

“II. That the American States employ all peaceful means in settling disputes which may arise among them.”

⁷³ See *Report of the Delegates of the United States of America to the Sixth International Conference of American States*, etc., p. 26.

When that type of war called intervention was discussed, Mexico, through its Delegation, was steadfast in its opposition to that principle, and ended by presenting a motion against non-aggression (*sic*), categorically stating that pacts such as that drawn up in Locarno and that conceived by President Wilson when he endeavored, by means of an inter-American treaty, to establish the fundamental bases of Pan-Americanism on the principles of independence, non-aggression, arbitration, and neutrality in cases of civil war, are indispensable in America.

At the time when the United States of America labored during said Conference to introduce into matters related to arbitration the principle of "the renunciation of war as an instrument of international policy", Mexico set out to establish the prohibition against any warlike aggression, concurring, beforehand, with the opinions expressed by France in reserving the right of legitimate self-defence, calling attention to the Locarno treaties and expressing its desire for the universality of the system, a similarity which reached such a point that the French Ambassador, in a note addressed to the Department of State at Washington on March 30th, 1928, declared:

"In the relations between the states of the American Continent there are similar difficulties which led the American Government at the Pan-American Conference at Habana to approve a resolution limited to the very terms 'war of aggression' which the French Government felt compelled to use in characterizing the renunciation to which it is requested to bind itself by means of a multilateral treaty."

On the other hand, it should be observed that the question of the renunciation of war is linked, by its obvious nature, to that of arbitration, for not only is it found expressed in the Pan-American resolution, but also in the very Treaty for the Renunciation of War, for if Article 2 refers to the solution by peaceful means, there can be no doubt that among these means those most commonly employed are arbitration and its correlatives, such as conciliation and mediation.

Accordingly, in view of the repeated declarations made by Mexico considering war of aggression, offensive war, and, in general, the exercise of international violence as reprehensible in the relations between peoples, and in view also of its opinion, already stated, that there is no conflict, however serious, which can not be settled by peaceful means, the President of the Republic has instructed me to announce to Your Excellency, as I now have the honor so to do, that the Government of Mexico accepts with pleasure the invitation extended by the Government of the United States of America to adhere to the Treaty against war signed in Paris on August 27th, 1928.

Since that Treaty provides that it shall come into effect as soon as the high contracting parties shall have deposited in Washington

the various instruments of ratification; and announces, on the other hand, that as soon as it shall have become effective it will be open to the adherence of the other powers of the world, the latter also to deposit in Washington the corresponding instruments of adherence, the Government of Mexico awaits the announcement of the coming into effect of the Treaty, in order to take the necessary steps which may formally establish its adherence, contributing in this manner with a cordial spirit and loftiness of view to the success of this new step of such moral importance in behalf of the peace of the world.

Awaiting the documents which you have been good enough to promise me, I avail myself [etc.]

G. ESTRADA

711.5912Anti-War/15

*The Secretary of State to the Danish Minister (Brun)*⁷⁴

WASHINGTON, September 14, 1928.

SIR: I have the honor to acknowledge the receipt of your note, No. 122 of September 1, 1928, in which you declare formally that the Danish Government adheres to the General Pact for the Renunciation of War, adding that this adherence will become complete when ratified in accordance with the Danish Constitution. You further inform me that the Minister for Foreign Affairs is prepared to submit the Treaty to the Danish Parliament in the session which opens at the beginning of the month of October next.

I take the greatest pleasure in informing you that your note has been deposited with the Treaty and that I shall be happy to annex to it in due course the notification from your Government of the Danish Parliament's ratification.

I shall be glad if you will transmit to your Government an expression of my gratification at their prompt action with respect to the Treaty.

Within a few days I shall transmit to your Government, through the American Legation at Copenhagen, two certified copies of the treaty for the purpose of formal adherence.

Accept [etc.]

FRANK B. KELLOGG

⁷⁴This note was followed as a precedent in preparing replies to notices of adherence received from other governments.

711.0012Anti-War/410

The Secretary of State to the Diplomatic Representatives in All Countries Except Those Which Were Original Signatories of the Treaty for the Renunciation of War

WASHINGTON, September 17, 1923.

SIRS: There are enclosed herewith two authenticated copies of the multilateral treaty for the renunciation of war.⁷⁵ You are instructed at the earliest possible date, to submit these copies to the Government to which you are accredited, stating that one copy is to be used for the purpose of formal adherence, that the other is for the archives of the Government.

You should, when you deliver the copies of the treaty, point out either in a note or orally, that the instrument of adherence may be executed immediately in accordance with the constitutional or other legal procedure of the government adhering. Should the Government to which you are accredited find it more convenient to send full powers to its Ambassador or Minister in Washington he could, of course, sign on behalf of his Government. Such instrument of adherence, which corresponds to the signature of the treaty, may be filed in Washington at any time before the treaty formally goes into effect. In all cases where such adherence must be ratified by the Congress, Parliament or other governmental body of the country adhering, this may be done after the signing of the instrument of adherence, unless otherwise provided by the laws of the adhering country, and the Department of State notified immediately when such ratification takes place. You should also notify in the same way the Government to which you are accredited that when formal adherence is made and adherence duly ratified, when this is necessary, it places the Government so adhering and ratifying on exactly the same basis as that of the original signatories, since the government so adhering and ratifying will receive the full benefits of the treaty as soon as it becomes effective through the ratification by the original signatories.

You will please keep the Department closely informed as to developments in this matter.

I am [etc.]

FRANK B. KELLOGG

⁷⁵ *Ante*, p. 153.

711.60 p 12Anti-War/3

The Chargé in Latvia (Sussdorff) to the Secretary of State

No. 5564

RIGA, September 18, 1928.

[Received October 1.]

SIR: Referring to the Department's circular telegram of August 16, 11 p. m., and to my telegram No. 71, of September 1, 11 a. m., 1928,⁷⁶ I have the honor to transmit herewith copies of a Note, dated August 30, 1928, from the Latvian Ministry of Foreign Affairs stating that as the International Treaty signed at Paris on August 27, 1928, is in full conformity with the national policy of Latvia, the Latvian Government has decided to adhere to it and that this decision will in due course be submitted to the Saeima in order to obtain the necessary ratification.

I have [etc.]

LOUIS SUSSDORFF, JR.

[Enclosure—Translation]

The Latvian Minister for Foreign Affairs (Balodis) to the American Minister (Coleman)

[RIGA,] August 30, 1928.

EXCELLENCY: I have the honour to acknowledge the receipt of Your Excellency's note dated the 27th inst., containing the text of the international Treaty signed at Paris on the same date and binding the Contracting Parties to renounce war as an instrument of national policy in their relations with one another and to seek only by pacific means the settlement or solution of all disputes which may arise among them.

You were also good enough to inform me that the Treaty will be open to the participation of every nation of the world.

As the Treaty is in full conformity with the national policy of this country, I have the honour to announce to Your Excellency the decision of the Latvian Government to adhere to this Treaty.

This decision will in due course be submitted to the Saeima in order to obtain the constitutionally required ratification.

I avail myself [etc.]

A. BALODIS

711.3312Anti-War/8

The Minister in Uruguay (Grant-Smith) to the Secretary of State

[Extract]

No. 688

MONTEVIDEO, September 18, 1928.

[Received October 11.]

SIR: In my telegram No. 26, of the 8th instant, 12 m.,⁷⁷ I had the honor to make report of the official notification by the Uruguayan Min-

⁷⁶ Latter not printed.⁷⁷ Not printed.

ister for Foreign Affairs of the intention of his Government to adhere to the multilateral Anti-War Pact. A copy and translation of his note are enclosed herewith.

I have [etc.]

U. GRANT-SMITH

[Enclosure—Translation]

The Uruguayan Minister for Foreign Affairs (Dominguez) to the American Minister (Grant-Smith)

238/928 (1269)

MONTEVIDEO, *September 7, 1928.*

MR. MINISTER: I have the honor to acknowledge receipt of Your Excellency's Note, No. 158, dated August 27, 1928, in which you inform me that the Governments of Germany, the United States, Belgium, France, Great Britain, Canada, Australia, New Zealand, South Africa, the Irish Free State, India, Italy, Japan, Poland, and Czechoslovakia, signed on that day in Paris a treaty by which they condemn recourse to war for the settlement of international disputes, renouncing it as an instrument of national policy in their relations between one another, and recognizing that the solution of all disputes or litigations of whatever origin that might arise between them shall be sought only by pacific means.

At the same time Your Excellency refers to the origin of this Pact, to the procedure followed for its conclusion, to the broadening of its scope, and expressing, thus, that you submit the text to the consideration of my Government, with a view to its adhesion.

In reply, I have the honor to advise Your Excellency of the satisfaction with which this Government has received that communication.

The principle sanctioned by the treaty has always guided our international conduct, and we have never omitted any effort, nor has any opportunity been neglected, that would afford an occasion to contribute towards its establishment.

That the relations between states be always maintained within the limits of law is an ideal deeply rooted in our people, which has sought to make it an integral part of its own constitution.

The treaty which has just been signed in Paris, condemning as it does recourse to force and insuring the pacific solution of disputes between nations, can receive, therefore, only the most cordial reception, and it is for this reason that this Government is disposed to favor the adhesion of Uruguay, to which end it will initiate the appropriate constitutional steps.

I reiterate [etc.]

RUFINO T. DOMINGUEZ

711.9212Anti-War/9

The Chargé in Siam (Bay) to the Secretary of State

No. 100

BANGKOK, *September 19, 1928.*

[Received October 29.]

SIR: I have the honor to refer to my telegram of September 19—1 p. m.⁷⁸ informing the Department of the receipt of a note from the Minister for Foreign Affairs, dated September 18th, communicating the decision of the Government of Siam to adhere without reservations to the multilateral Treaty renouncing war, signed in Paris on August 27th last, and stating that the formal instrument of adherence will be deposited at Washington by the Siamese Minister there, in accordance with Article 3 of the Treaty.

There are now transmitted, for the information of the Department, a copy of the note of the Minister for Foreign Affairs, dated September 18, 1928, and a copy of the Legation's acknowledgment thereof.⁷⁹

I have [etc.]

CHARLES A. BAY

[Enclosure]

The Siamese Minister for Foreign Affairs (Traidos) to the American Chargé (Bay)

No. A. 40/12260

SARANROMYA PALACE, *18 September, 1928.*

MONSIEUR LE CHARGÉ D'AFFAIRES: I have the honour to acknowledge the receipt of your letter of 27th August last, communicating for the consideration and approval of my Government the text of the multilateral Treaty Renouncing War, signed in Paris on 27th August last by the Government of the United States of America and the Governments of Australia, Belgium, Canada, Czechoslovakia, France, Germany, Great Britain, India, The Irish Free State, Italy, Japan, New Zealand, Poland and South Africa.

In reply, I have much pleasure in informing you that His Majesty's Government is in full agreement with the high object of this treaty and will adhere thereto without reservations and I shall in due course transmit, in accordance with the provisions of Article 3, for deposit at Washington, through His Majesty's Minister there, the formal instrument of adherence.

In asking you to be good enough to inform your Government of this decision of His Majesty's Government, I also request you to express its appreciation of the opportunity to participate in this new movement for world peace.

I avail myself [etc.]

TRAIIDOS

⁷⁸ Not printed.⁷⁹ Acknowledgment not printed.

711.90 h 12Anti-War/2

The Secretary of State to the Chargé in France (Armour)

No. 2908

WASHINGTON, *September 22, 1928.*

SIR: With reference to the Department's No. 272 of August 16, midnight, please send to the Minister of Afghanistan at Paris a note as follows:

"I am instructed by my Government to send to you, for transmission to your Government, two authenticated copies of the Multilateral Treaty for the Renunciation of War, signed at Paris on August 27, last, one copy being for the archives of your Government and the other for its use should it so desire, in its formal adherence.

"I am also instructed by my Government to furnish, for the information of your Government, a copy of a circular instruction to the diplomatic agents of the United States accredited to Governments other than the original signatories of the Treaty, dated September 17, 1928."

I am [etc.]

FRANK B. KELLOGG

711.3812Anti-War/10

*The Haitian Minister for Foreign Affairs (Léon) to the American Chargé in Haiti (Gross)*⁸⁰

[Translation]

PORT AU PRINCE, *22 September, 1928.*

MR. CHARGÉ D'AFFAIRES: I have the honor to acknowledge receipt of your letter of August 27th last, under cover of which you communicated to me the text in French and English of the Treaty signed at Paris on the 27th of last month, whereby the High Contracting Parties solemnly declare in the name of their respective peoples that they condemn recourse to war for the settlement of international differences and renounce it as an instrument of national policy in their mutual relations.

In the name of the Government of the United States and conformably to the Treaty, you ask the Haitian Government in giving its adherence to the Treaty to participate in the highly humanitarian work undertaken by the signatory Powers for the perpetuation of peace in the world.

The Haitian Government has followed with interest the negotiations which have resulted in the signing of this Treaty. In 1925 the Government of Haiti hastened to sign the so-called Geneva Protocol for the pacific settlement of differences between nations, thus manifesting its sincere attachment to the cause of peace. The Govern-

⁸⁰ Copy transmitted to the Department as an enclosure to despatch No. 1441, July 1, 1929, from the Legation in Haiti; received July 16.

ment of the Republic, happy again to contribute to the efforts made to outlaw war in international relations expresses the most lively satisfaction in adhering to the Treaty of Paris the high moral and Christian scope of which can not but be a title of honor for its signatories.

Accept [etc.]

CAMILLE J. LÉON

711.9312Anti-War/12

The Minister in China (MacMurray) to the Secretary of State

No. 1676

PEKING, *September 25, 1928.*

[Received November 12.]

SIR: In confirmation of the Legation's telegram No. 720, of September 21, 3 P. M., and with reference to the Legation's despatch No. 1635, of August 29, 1928,⁸¹ regarding the multilateral treaty for the renunciation of war signed in Paris on August 27, 1928, I have the honor to enclose a copy of the note of September 13, 1928, in which the Nationalist Minister for Foreign Affairs states that his Government has decided to adhere to the treaty without delay.

The note was received by the Legation in English and in Chinese, both versions being signed by Dr. Wang. The Chinese text, however, bears the date of September 14th, which suggests that the English version was composed first and subsequently rendered into Chinese.

As the Department will observe, Dr. Wang has seized the opportunity, in concluding the note, to give further expression to sentiments which are very familiar under present circumstances. He stated that his Government felt that the signatory powers of the treaty would abide by its spirit and "remove, at the earliest opportunity, all of China's unequal treaties and encroachments upon her sovereignty, as, for instance, the stationing of large numbers of alien troops on her soil."

I have [etc.]

J. V. A. MACMURRAY

[Enclosure]

The Chinese Minister for Foreign Affairs (Wang) to the American Chargé (Perkins)

NANKING, *September 13, 1928.*

SIR: I have the honor to acknowledge the receipt of your communication dated August 27 in which the Government of the United States of America presents for my consideration and for the approval of my Government the text of a treaty that was signed on the same day in Paris by the Governments of Germany, the United States of America, Belgium, France, Great Britain, Canada, Australia, New Zealand, South Africa, The Irish Free State, India, Italy, Japan, Poland, and

⁸¹ Neither printed.

Czecho-Slovakia binding them to renounce war as an instrument of national policy in their relations with one another and to seek only by pacific means the settlement or solution of all disputes which may arise among them.

The ideals which are embodied in this treaty of extraordinary significance are the foundation on which the national life of the Chinese people is constructed, and I wish, therefore, immediately to avail myself of this opportunity to inform you that this impressive movement for the perpetuation of universal peace and for the advancement of world civilization, aroused our sympathetic interest from the very beginning and that, in the present form as a definitive treaty, my Government has decided to adhere to it without delay.

The Chinese Government and people feel deeply confident that the interdependence of the different nations of the world is making it increasingly manifest to all thinking minds that the renunciation of war and a frank avowal of the need of friendly relations is the only means to save civilization from the danger of destruction. We are, indeed, brought before the supreme test whether, after those painful experiences of a few years ago which still linger in our memory, we are not yet convinced of the absolute necessity of a real spirit of mutual co-operation to guide us in our national policies towards one another. It is therefore a source of profound satisfaction to see that this action of momentous importance, so ably sponsored by the United States of America, is receiving universal response.

As you are aware, the whole conception of life among my people centres round the ideal of harmony. It is indeed difficult, if not impossible, to find in all our thinkers a view of life which justifies conflict in any form as the basis of a national policy; and I venture to think that it is this idea of harmony and peace which accounts for the stability of our civilization and the extraordinary length of our history. The present treaty to renounce war is, in fact, a vindication of the teachings of our revered ancestors, and especially as these teachings, which have been amplified by our late leader Dr. Sun Yat-sen, so clearly embodied in such noble principles as "Universal Justice" and "The Brotherhood of nations", are also at the present moment being applied in the building up of a new China, the Chinese people are prepared to join with America and the other signatory Powers with more than the usual enthusiasm in endeavoring to attain the noble ends of peace.

We are deeply sensible, however, that in order to make war really impossible, it is necessary to eliminate all causes which are likely to give rise to any international dispute, and to rigidly uphold the principle of equality and mutual respect for territorial sovereignty among all nations. My Government, therefore, firmly believes that

the signatory powers will abide by the spirit of the present treaty and remove, at the earliest opportunity, all of China's unequal treaties and encroachments upon her sovereignty, as, for instance, the stationing of large numbers of alien troops on her soil. For it is clear that a free and independent China is one of the most vital factors, whereby permanent world peace may be promoted and strengthened.

I avail myself [etc.]

CHENGTING T. WANG

711.1212Anti-War/6 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, September 26, 1928—4 p. m.

263. Your 256 September 14, 3 p. m.⁸² Please hand the following note to the Acting Minister of Foreign Affairs:

"I have the honor to inform Your Excellency that I did not fail to communicate to my Government the substance of your note of September 14, 1928,⁸³ in which you informed me that the Mexican Government awaited the announcement of the coming into effect of the general treaty for the Renunciation of War in order to take the necessary steps formally to establish its adherence. I am now instructed by my Government to express its high appreciation of the gracious sentiments of Your Excellency in regard to the Treaty.

"Adherence to this treaty may properly be completed by the deposit with the Government of the United States of an instrument of adherence in accordance with the constitutional requirement of the adhering state in becoming party to treaties. This procedure may be followed as soon as the Government of Mexico desires. There is no need to await ratification by the Powers which signed the Treaty on August 27. Adherences completed prior to the instant when the treaty becomes effective will automatically make adhering powers parties to the treaty at that instant.

["My Government has instructed me to express its cordial hope that the Government of Mexico will be among the first of the countries which complete the process of adherence, thus contributing to the prompt and universal acceptance of a treaty which signalizes the deep and abiding friendship between our two countries."

KELLOGG

711.9112Anti-War/6 : Telegram

The Chargé in Persia (Treat) to the Secretary of State

TEHERAN, October 4, 1928—2 p. m.

[Received October 4—11:30 a. m.]

81. Legation's 74 [76], August 29, noon.⁸² The following note in translator's translation from the French has just been received from the Minister for Foreign Affairs:

⁸² Not printed.

⁸³ *Ante*, p. 202.

“October 3rd, 1928.

Monsieur le Chargé d’Affaires: I have the honor to acknowledge receipt of the note which his Excellency Mr. Hoffman Philip was good enough to transmit to me on August 27th last and with which was enclosed the text of the multilateral treaty against war proposed by His Excellency Mr. Kellogg.

My Government, considering that the multilateral treaty signed at Paris is in harmony with its constantly pacific policy and the obligations imposed by the pact of the League of Nations on the members thereof; assured on the other hand that the text of the treaty does not contravene its right of legitimate defense; it being understood moreover that the reservations made by certain powers cannot under any circumstances or at any time create on the part of Persia any obligation whatsoever to recognize anything possible susceptible of contravening its territorial and maritime rights and possessions, gives its cordial adhesion to the international pact for the outlawry of war.

Please accept, et cetera. F. Pakrevan, Gérant of the Ministry of Foreign Affairs.”

TREAT

711.9412Anti-War/70

The Chargé in Japan (Neville) to the Secretary of State

No. 977

TOKYO, October 8, 1928.

[Received October 27.]

SIR: Supplementing the Embassy’s despatch No. 961, of September 24, 1928,⁶⁴ I have the honor to enclose a translation from the *Jiji Shimpo* of an article purporting to describe the attitude of the Privy Council with respect to the Treaty to Outlaw War.⁶⁴

The more moderate element in the Privy Council, it states, attach more importance to the connotation of the word “peoples” than to the interpretation of the phrase “in the names”, and they are satisfied that, in the case under discussion, it can be construed to mean “states”. They are said, however, to be of the belief that the construction placed by the Japanese Government on this phrase should have been set forth publicly by Count Uchida when he signed the Treaty. The article points out that some of the Privy Councillors have taken a more uncompromising attitude and contend that the Treaty as it stands should not be ratified. The present consensus of opinion among the press, in the Foreign Office, and in non-official quarters is that the failure of the Government to obtain a formal and open understanding with respect to its interpretation of Article 1 of the Treaty, and perhaps the Treaty itself, will be subjected to a severe attack when the Treaty is submitted to the Privy Council, but that the Privy Council

⁶⁴ Not printed.

will eventually recommend its ratification but attach a vote of censure of the Government.

According to the Tokyo *Hochi*, the organ of the principal opposition party, the members of the Privy Council are also exercised over the possibility that China's adherence to the Treaty to Outlaw War may be construed as implying Japan's recognition of the Nationalist Government as the Government of China, the reports that the law officers of the Department of State were of the opinion that the conclusion of the Customs Treaty constituted recognition of the Nationalist Government, and that Senator Borah had stated that adherence to the Treaty to Outlaw War by Russia implied recognition by the United States of the Soviet Government as the Government of Russia, having apparently drawn attention to this question. The Foreign Office is reported to have admitted that the adoption by the United States, Great Britain and France of the doctrine that, adherence to a multi-lateral treaty of Governments to which previous recognition had not been accorded constituted recognition, would have to be considered by Japan. "However," an official in the Foreign Office is quoted as saying, "Japan's diplomatic relations with China occupy a most important place in the formulation of her foreign policies, and in view of her particular interests in China Japan must adopt some appropriate measure which will fit in with the complicated relations existing between the two countries. The following questions must be answered: Should Japan, in the present circumstances, ratify a treaty to which China has adhered? Would it be possible to ratify the Treaty with the reservation that the obligations created by the Treaty shall not exist in respect of China so long as Japan withholds recognition from the Nationalist Government?"

No opportunity has as yet been offered to ascertain the correctness of the report, and I do not wish, therefore, to comment upon it at length. However, if it has any basis in fact, it should be examined, in my opinion, in the light of the controversies between the Japanese and Nationalist Governments over the abrogation by the Chinese of the Sino-Japanese Commercial Treaty and the Tsinan Incident, and of the numerous other issues which combine to complicate the relations between the two countries. The Nationalist Government would undoubtedly draw great satisfaction from its recognition by the Japanese Government, as it apparently did from its recognition by a country of so little importance as Cuba. It is, therefore, reasonable to suppose that the Japanese Government is counting upon the recognition hitherto withheld as one of the means of inducing the Nationalists to assume a more concessive attitude, and that it would be loath,

particularly at the present conjuncture, when signs are evident of a resumption of negotiations over the Commercial Treaty, to give any evidence of acceptance of the present Nationalist regime.

I have [etc.]

EDWIN L. NEVILLE

711.6412Anti-War/23

The Minister in Hungary (Wright) to the Secretary of State

No. 276

BUDAPEST, October 9, 1928.

[Received October 23.]

SIR: With reference to my telegram No. 29 of October 8, 2 p. m.,⁸⁶ in which I transmitted verbatim the principal portions of the English translation furnished by the Hungarian Foreign Office accompanying the note in French of the Minister for Foreign Affairs dated October 6 and received on October 8, notifying me of the adherence of the Hungarian Government to the Treaty for the Renunciation of War, I have the honor to transmit herewith copies of the signed French text as well as of the aforesaid English translation furnished by the Foreign Office.

As reported in my aforesaid telegram the English translation, with the exception of the phrases to which I called attention in my telegram, is a fair translation of the French text, although its text evidences, perhaps, unfamiliarity with the finer expressions of English phraseology: I have deemed it wiser, however, not to amend or alter the translation except for the two insertions in the ante-penultimate paragraph.

As reported in my telegram No. 28 of October 6, 9 a. m.,⁸⁶ Dr. Walkó, Minister for Foreign Affairs, requested several days ago that I call upon him on the afternoon of October 5 in order that he might speak to me before the meeting of the Council of Ministers to be held later on that day. It transpired at that time that the subject of the conversation was the treaty. He began by stating that he desired to apologize for the delay that had ensued in replying to my note of August 27th last, inviting Hungary's adherence to the Multilateral Treaty for the Renunciation of War which he said was due—as he had implied in our conversation on August 25th last—to his prolonged absence in Geneva and the absence from Budapest of the Regent, the Prime Minister, and many of the Cabinet. He then stated that the text of a note communicating to me Hungary's adherence to the Pact had been prepared, had been approved by the Regent and would be

⁸⁶ Not printed.

discussed at the Council of Ministers that afternoon; that he desired informally to advise me of the general tenor of that note and offered to read me that text which he said was both in French and English. I stated that I would much prefer to avoid the possible embarrassment of reading a note which might be slightly changed by the Council—an attitude which he appeared to appreciate—and he thereupon informed me as follows:

The Hungarian Government was entirely in sympathy with this great accomplishment of the Secretary of State in procuring an official statement of the desire of all signatory nations to renounce war; he emphasized the point that the Government of Hungary had no thought of war but that they were constrained to assume that the principle of the disavowal of war would be followed by the signatory Powers in the fullest conception of the principle. He observed that the present situation in this portion of Europe, however, was such as to render it incumbent upon the Hungarian Government to make "certain observations" concerning events and conditions which vitally affect Hungary and which, if the present "unbearable" conditions continue, cannot but lead to increased friction. He particularly emphasized the fact, however, that the Hungarian Government was not thinking of war, nor did these "observations" amount to "reservations": in fact he clearly intimated that the Government was making every effort to avoid either a tone of belligerency or an inference of reservations in its observations concerning a situation which it deemed unbearable.

He stated that the note would hardly be ready for signature before late on Saturday—a semi-holiday—and it was therefore determined that it would be delivered to me on the morning of Monday, October 8th, and that if agreeable to me the text thereof would be given to the Hungarian press for publication on the morning of Tuesday, October 9th.

I inquired whether I might at once inform my Government that the note expressing Hungary's adherence would be forthcoming on that date, with the understanding that announcement of Hungary's adherence would not be made by us before that time. He said that I was quite at liberty to do so, and my telegram of October 6 was based upon this conversation.

In order that the Department may be in possession of these texts at the earliest possible moment I transmit them immediately by open mail. The press comments upon this note, the text of which appeared in all Hungarian papers this morning, according to the arrangement, will be transmitted in due course.

I have [etc.]

J. BUTLER WRIGHT

[Enclosure—Translation]

The Hungarian Minister for Foreign Affairs (Walko) to the American Minister (Wright)

3993 pol. 1928

BUDAPEST, *October 6, 1928.*

MONSIEUR LE MINISTRE: In reply to your Excellency's kind note Nr. 88 of August 27, a. c. and in connection with my note of September 1, I have the honor to inform Your Excellency of the following:

The Government of the United States is aware of the fact, that after the World War Hungary was forced to sign a peace treaty which had not been preceded by the negotiations customary on such occasion and which, being the issue of erroneous presuppositions, created an unjust situation.

The situation arisen in consequence of this treaty of peace has not been able to assure the tranquillity, and is impeding the development, of the different nations in this part of Europe. The events of the ten years which have elapsed since the end of the War furnish evident proof that this peace treaty cannot be a suitable basis for natural and peaceful development.

It follows from the teaching of History that where ever in the past the relations between nations were not determined by the exigencies of justice and reason, sooner or later forcible clashes occurred. The generous and humanitarian intentions of the policy of the United States, which are evidenced by its proposal to renounce war, elicit the highest appreciation of the Hungarian Government, because that policy purports the elimination of such clashes and of the horrors of war from the lives of nations. However, it is natural that this endeavour can not lead to satisfactory results unless, war being eliminated, the nations could dispose of some different yet efficacious means for the solution of crises evolved from unjust and unnatural conditions.

The Hungarian Government adheres to the proposal of the Government of the United States under the supposition that the Government of the United States as well as the Governments of the other signatory Powers, will seek to find the means (of) rendering (it) possible that in the future injustices may be remedied by peaceful means.

The Hungarian Government will in due time take the necessary measures to assure that its adherence attain full legal validity in accordance with the rules of the Hungarian Constitution.

Pray accept [etc.]

WALKO

711.2412Anti-War/7

The Chargé in Bolivia (Horn) to the Secretary of State

No. 58

LA PAZ, *October 12, 1928.*

[Received October 30.]

SIR: I have the honor to refer to the Department's instruction of September 17, 1928, (no file number), and to transmit herewith an authenticated copy of the Multilateral Treaty for the Renunciation of War containing the instrument of adherence of the Republic of Bolivia. The Department will be notified by cable as soon as the Bolivian Congress has taken action upon the ratification of this treaty.

This despatch is in confirmation of this Legation's telegram No. 46 of October 11 [12?], 1928.⁸⁷

I have [etc.]

THOMAS S. HORN

[Enclosure—Translation]

*Declaration of Adherence by the Cabinet Council of Bolivia to the Treaty for the Renunciation of War*LA PAZ, *October 11, 1928.*

The Cabinet Council, upon examination of the text of the Treaty signed in Paris August 27 of this year by the Governments of Germany, the United States, Belgium, France, Great Britain, Ireland, and the British territories, Italy, Japan, and Czechoslovakia, the said States obligating themselves to renounce war as an instrument of their national policy in their reciprocal relations of any origin and solemnly engaging to seek by pacific means, without resorting to war, the solution or settlement of all the disputes that may arise between them, and the invitation which, through his Excellency David E. Kaufman, Envoy Extraordinary and Minister Plenipotentiary of the United States of North America was received by the Government of Bolivia from the Government of North America to adhere to the said Treaty, considering:

That Bolivia finds that the formula fully agrees with the yearnings for peace and fraternity which it has always upheld, and that the tendencies, ideas and guarantees harmonize with the traditional policy of peace and friendship pursued by the Government of Bolivia;

That under Article 38 [3] of the Multilateral Treaty, it will remain open, immediately upon going into effect, for such time as may be deemed necessary for the adhesion of the other nations of the world:

RESOLVES: The Republic adheres to the Treaty signed in Paris by the Governments of Germany, the United States, Belgium, France, Great

⁸⁷ *Post*, p. 678.

Britain, Ireland, the British Territories, Italy, Japan and Czechoslovakia, renouncing war as an instrument of their national policy in their mutual relations, and engaging to seek through pacific means the solution or settlement of all the disputes that may arise between them, and it shall be referred to the National Congress for its constitutional approval.⁸⁸

H. SILES
A. PALACIOS
MARIANO ZAMBRANA
A. SOLARES
DAMIAN Z. REJAS
HÉCTOR SUÁREZ R.

711.1212Anti-War/9 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, *October 23, 1928—11 a. m.*

[Received 4:35 p. m.]

286. My despatch No. 992, September 24⁸⁹ and Department's telegram 263, September 26, 4 p. m.

Acting Minister of Foreign Affairs Estrada brought up in a conversation with Schoenfeld and myself last Friday evening what seemed to him an inconsistency between article 3 of the multilateral treaty for the renunciation of war and the notes which we had sent him on September 24 and September 28 with reference to the method of adherence to be adopted by parties other than the original signatories.

The Acting Minister stated that from the language of the treaty itself it appeared that it was to go into force as between the contracting parties as soon as their several instruments of ratification shall have been deposited in Washington and that the treaty "when it has come into effect as prescribed" shall remain open for adherence by other powers. Acting Minister Estrada seemed to be of the opinion that the procedure we had invited the Mexican Government to follow in our two notes of September 24 and 28, respectively, is in conflict with this provision of the treaty regarding adherence. The Acting Minister of Foreign Affairs pointed out to us that in his note of September 14 accepting the invitation of the United States Government to adhere to the treaty, copy of which note was transmitted to the Department within the Embassy's despatch number 970 of September 14, he had deliberately used the language of article 3 on the subject of procedure to be followed in adhering thereto. He asked us if it was desired that

⁸⁸ The adherence was not ratified by the Bolivian Congress.

⁸⁹ Not printed; it transmitted copy of a note dated Sept. 24, 1928, addressed to the Mexican Under Secretary of Foreign Affairs in accordance with Department's circular instruction of Sept. 17, 1928, p. 207.

he should answer our notes of September 24 and 28, respectively. He stated that he was willing to do this if we desired but if he answered such notes he feared it might involve an academic discussion which might be interpreted as having a significance it would not possess. If we agreed with him in this respect he suggested that the notes of September 24 and 28 be withdrawn allowing the Mexican Government to send its instrument of adherence to Washington without further delay. We advised him that we would submit the matter to the Department for instructions.

MORROW

711.3512Anti-War/16 : Telegram

The Secretary of State to the Ambassador in Argentina (Bliss)

WASHINGTON, October 25, 1928—3 p. m.

46. I received your despatch of September 10th enclosing a copy of a speech of Senator Molinari. The speech is a very able and interesting one. I think the Senator has some misapprehensions about the negotiations and effect of the Treaty.

I fully appreciate what he says about the pacific intentions of Argentina. I know, of course, that the Government and the people of Argentina are devoted to the principle of world peace and that it is not necessary for Argentina to sign a treaty not to go to war in order that its influence may be cast on the side of peace and justice. No country has gone further to demonstrate this than has Argentina in her past history. She has gone further than most countries in making arbitration treaties which are intended to settle difficulties between nations without resort to war. Argentina can undoubtedly add great weight to the Multilateral Treaty by signing it. She is one of the great nations of the Western Hemisphere and influential in world affairs.

There are some suggestions in his speech which I think I can demonstrate spring from a want of knowledge of our local conditions. The Treaty was not proposed or signed with any idea of affecting our local political conditions or the elections of 1928. M. Briand proposed a bilateral treaty in exactly this same language in 1927 and the negotiations have been going on ever since until shortly before the signing. I am sending you some copies of the pamphlet which contain all the negotiations between the countries on the subject of this Treaty. There were no secret papers or conversations. Everything was made public as we proceeded. The principles of the Anti-War Treaty were endorsed both by the Democratic and by the Republican National Conventions and it is not an issue in this campaign nor has it been mentioned by either party as it is generally under-

stood to meet the approval of all political parties. It is true the United States did not ratify the Versailles Treaty and the League of Nations. It is unnecessary for me to review the history of this struggle which did to some extent become a political issue. One thing might be said in passing—that the United States was unwilling to commit itself to the application of sanctions or to use force against any belligerent country, that is, it cannot pledge its armed forces in advance. There were other objections to the Treaty which do not in my judgment bear upon the present Treaty at all.

A brief history of these negotiations might be useful to you although I presume you are very familiar with them. As you know, M. Briand made a public speech in April, 1927 in which he announced that France would be willing to enter into a treaty agreeing that the two countries should never go to war with each other. On June 27, 1927, he sent me a note containing the form of a treaty proposed which is exactly in the language of the present Treaty with the exception of the preamble and such changes as were necessary to make it applicable to all the nations of the world. This proposition was given the most careful consideration not only by myself but by the President and many Senators, especially those of the Foreign Relations Committee, and on the twenty-seventh of December, 1927, I replied to Briand's note accepting the principle but suggesting that it be applied to other nations. The intention then was and always has been that the Treaty should ultimately, if possible, be signed by all countries in the world thus making a notable declaration against war as a means of settling international disputes. I think some misunderstanding has occurred by reason of the fact that negotiations were not opened with all the countries in the world and especially with the leading nations of South America. There were no secret communications between the French Government and the United States or between the United States and any Government pertaining to this Treaty. I did not then believe, and do not now, that there was the necessity for such a treaty in Central and South America as in Europe. That was the seat of the last great war and the seeds of war were existent in Central Europe to a greater extent than in any other place in the world. I think it is an acknowledged fact that there is little danger of war in South America or anywhere in the Western Hemisphere. Nevertheless, it was my opinion then, and still is, that a declaration signed by all the countries in the world would have a greater influence, especially a greater moral influence, than one signed only by European countries. I did not think it was practical to undertake a negotiation with sixty-five nations. The time consumed in correspondence and discussion of various points would have made the project difficult if not impossible of solution within a reasonable time. I believed that if a treaty

could be entered into between the principal Powers of Europe which was simple and did not involve any complicated system of sanctions or agreement to punish violators, that it would be readily accepted as a principle of international law by all the world. It was, therefore, thought wise to select six of the Powers involved in the last war—to wit, Japan, Great Britain, Germany, France, Italy, and the United States—and accordingly negotiations were carried on with these countries. It is not a fact that Great Britain was the country which suggested that the Treaty be open to adhesion by all countries. That was my proposition originally and acquiesced in by France before Great Britain was called into the negotiations.

The only suggestion of extending the original signatories came from Great Britain and France in this way. Great Britain, as you will see, informed the United States that it could not sign for its Dominions and requested the United States to invite the Dominions directly sending the invitations to Canada and Ireland which countries had Ministers in the United States, and the other invitations to go through the British Government to the various Dominions. I realized that under the British Dominion system this was necessary and readily assented. I think, as I have explained to you before, France and Great Britain also raised the question as to whether the Treaty would be inconsistent with the obligations of the treaties entered into by Great Britain, Belgium, Germany, France, Italy, Poland, and Czechoslovakia, known as the Locarno Treaties. Under these Treaties the countries agree not to go to war but if any one of the Powers should violate the Locarno Treaties, the other Powers agreed to come to the assistance of the aggrieved State and as this was construed by some of the countries to include armed assistance, a question was raised as to whether an absolute agreement not to go to war would be inconsistent with this obligation. In substance my reply was that if all the Locarno Powers signed this Treaty and they break the Locarno Treaty, they would necessarily break this Treaty and the other Powers would be released as to the belligerent country and would thereby retain their freedom of action. For that reason and no other, Belgium, Poland and Czechoslovakia were asked to sign and readily did so.

Senator Molinari suggested that the notes indicated that the Treaty was not inconsistent with the various treaties of neutrality and other secret treaties in Europe. I know of no secret treaties on this subject at all. All of the League Powers agree to file their treaties with the League and I believe we have all treaties bearing on this subject. The European Powers abandoned any idea that there was any inconsistency between their treaties guaranteeing neutrality and the Multilateral Treaty. Of course, all these Powers having

signed the present Treaty, there could be no inconsistency because it is perfectly true that if any one violates the Locarno Treaties or any treaty guaranteeing neutrality, they would violate this Treaty also and the nations would be free to exercise their own volition as to the belligerent Power. Certainly this Treaty does not guarantee any other treaty in the world. It supplements the efforts made by other countries to maintain peace by a pledge of the nations of the world to this effect.

There are those who will undoubtedly claim that the best way to maintain peace is by military alliances, agreements between countries to punish a violator of the treaty, to apply sanctions or to use military force to put down any conflict between nations. That is not my opinion. I do not think military alliances have conduced to the peace of Europe. I do not believe independent nations will delegate to any authority the power to call for military forces or to require a nation to go to war for any purpose.

[Paraphrase.] I realize that this is an important step which should be carefully considered by the Argentine Government, and I do not wish to press Argentina in the matter. I would be very much pleased if all Central and South American countries adhered to the treaty. It would, I think, add greatly to its influence in the world, although I know the present world opinion is that South America is, as a whole, inclined to peace and not so likely to engage in war as other parts of the world. There is no objection to your conveying to Senor Molinari the substance of this message should you consider it wise, but I should not care to have it left as a memorandum. [End paraphrase.]

KELLOGG

711.8412Anti-War/5

The Minister in Ethiopia (Southard) to the Secretary of State

No. 86

ADDIS ABABA, *October 29, 1928.*

[Received November 28.]

SIR: I have the honor to refer to the Department's circular instruction of September 17th, 1928, enclosing two authenticated copies of the multilateral treaty for the renunciation of war, and indicating that the instrument of adherence might be executed immediately in accordance with the legal procedure of the Ethiopian Government.

Promptly upon receipt of these copies a few days ago I took up with the Ethiopian Government the matter of adherence and ratification.

As reported by telegraph to the Department on October 28th, 1928,⁹¹ His Majesty, King Tafari, on that date sealed, signed and ratified the treaty. The act of sealing and signing by His Majesty constitutes also complete and final ratification in accordance with existing legal procedure of the Ethiopian Government.

One copy of the sealed, signed, and ratified treaty is forwarded herewith. The Amharic inscription on the seal reads in English:

“King Tafari, Heir to the Throne and Regent Plenipotentiary of the Empire of Ethiopia.”

Translation of the Amharic inscription or writing under the seal is as follows:

“Seal affixed, signed, and approved (adhered to), Tekemt 18th, 1921 (October 28th, 1928), Year of Mercy, Addis Ababa. On behalf of the Government of the Empire of Ethiopia. (Signed). Tafari Makonnen.”

The three parenthetical words or phrases above are my own, added to make clearer the translation from the Amharic. There is no exact term in Amharic for “adhere” or “act of adherence”. Approved, accepted, and similar words, have the same meaning in Amharic as does adhere in English. The seal also legally establishes adherence. By the Ethiopian calendar the current year is 1921 A. D. The corresponding date by our own calendar is given in parentheses immediately following the Ethiopian date.

Each Ethiopian official has his own special seal for legalizing and authenticating his signature. Only the Empress, the King, and the Abouna (head of the state church) may place their seals above or before the inscription or signature. All others place the seal below and after the inscription and signature.

I have [etc.]

ADDISON E. SOUTHARD

711.8312Anti-War/17

The Secretary of State to the Minister in Egypt (Gunther)

No. 14

WASHINGTON, October 30, 1928.

SIR: I have received your Legation's despatch No. 30 of September 4, 1928, enclosing a copy and a translation of a note from the Minister of Foreign Affairs dated September 3, 1928, in which the statement is made that the Egyptian Government declares fully to adhere to the treaty for the renunciation of war, just as it was signed at Paris without the adherence being at any time construed as an admission of any reserve whatever made on the subject of this pact. It is desired that you hand the following note to the Minister of Foreign Affairs:

⁹¹ Not printed.

"I have the honor to inform Your Excellency that I did not fail to communicate to my Government the text of your note in which you informed me that the Egyptian Government has decided to adhere to the multilateral treaty for the renunciation of war. I have now been directed by my Government to express its pleasure in this decision and its appreciation for the friendly sentiments of Your Excellency in regard to the treaty."

For your information and use if occasion require, it may be stated that complete adherence to this treaty may, as provided in Article III thereof, properly be evidenced by the deposit with the Government of the United States of an Act of adherence in accordance with the legal requirements of Egypt. To this end, an authenticated copy of the treaty was sent to you on September 17, 1928, for delivery to the Egyptian Government for that Government's convenience in preparing its Act of adherence. Another authenticated copy was at the same time sent to you for the archives of the Egyptian Government. There is no need to await ratification by the Powers which signed the Treaty on August 27. The deposit of Acts of adherence with the Government of the United States prior thereto will automatically make adhering powers parties to the treaty at the instant the treaty becomes effective.

I am [etc.]

FRANK B. KELLOGG

711.59 a 12Anti-War/5

The Minister in Denmark (Dodge) to the Secretary of State

No. 647

COPENHAGEN, *October 30, 1928.*

[Received November 21.]

SIR: Referring to my despatch No. 622 of the 7th instant⁹² stating that upon the date of the receipt of your Circular Instruction, dated September 17th last, File No. —, namely on the 5th instant, I addressed a note to the Minister for Foreign Affairs enclosing the two authenticated copies of the Multilateral Treaty for the Renunciation of War for the Government of Iceland and embodying the substance of your Instruction, I now have the honor to enclose herewith a copy and translation of a note from the Minister for Foreign Affairs, dated the 29th instant, which I have received to-day in reply.

It will be observed that this note states that a formal declaration of adhesion of Iceland to the Treaty, while reserving its ratification, has been endorsed upon one of the authenticated copies which was forwarded on the 29th instant to the Danish Minister in Washington with instructions to transmit it to the Department for deposit, in accordance with Article 3 of the said Treaty.⁹³

I have [etc.]

H. PERCIVAL DODGE

⁹² Not printed.

⁹³ Transmitted by the Danish Minister on November 13 in note No. 162; not printed.

[Enclosure—Translation ⁸⁴]*The Danish Minister for Foreign Affairs (Moltesen) to the American Minister (Dodge)*

COPENHAGEN, October 29, 1928.

MR. MINISTER: Referring to your note dated the 5th of this month relative to the multilateral treaty to renounce war, I have the honor to inform you that in order to conform to the desire expressed in your note, I have placed today in the name of Iceland on one of the certified copies which accompanied your note the following declaration:

“In the name of Iceland, the undersigned Minister for Foreign Affairs of Denmark, who is charged with the management of the foreign affairs of Iceland, in accordance with the Danish-Icelandic Act of Union, while reserving its ratification, has adhered to the treaty of which a certified copy precedes.”

This act has been forwarded today to the Danish Minister in Washington with instructions to transmit it to the Department of State with a view to its deposit in conformity with article 3 of the said treaty.

The Minister of Denmark has also been instructed to draw the attention of the Department of State to the declaration of permanent neutrality in article 19 of the Danish-Icelandic Act of Union of November 30, 1918, of which the Government of the United States was notified by the note of the Minister of Denmark, dated December 10, 1918.⁸⁵

Pray accept [etc.]

L. MOLTESEN

711.2112Antl-War/8

The Chargé in Colombia (Matthews) to the Secretary of State

No. 1450

BOGOTÁ, November 2, 1928.

[Received November 24.]

SIR: With reference to my despatch No. 1394 of August 31, 1928⁸⁵ and previous correspondence concerning the multilateral treaty for the renunciation of war I have the honor to transmit herewith in order that the Department's records may be complete a copy and translation of a Note from the Colombian Minister for Foreign Affairs dated October 25th informing me that he had submitted the aforesaid treaty to the Colombian Congress, and a copy of my acknowledgment thereof dated October 31st. I shall inform the De-

⁸⁴ File translation revised.⁸⁵ Not printed.

partment by telegraph if, and when, the Colombian Congress authorizes adherence to the treaty.

I have [etc.]

H. FREEMAN MATTHEWS

[Enclosure—Translation]

The Colombian Minister for Foreign Affairs (Uribe) to the American Chargé (Matthews)

BOGOTÁ, October 25, 1928.

MR. CHARGÉ D'AFFAIRES: With reference to the esteemed note of His Excellency, Mr. Piles, of August 27 last, No. 824, and in reply to yours of the 16th and 20th of the present month with which you sent me copies of the multilateral treaty for the renunciation of war, I have the honor to inform you that in accordance with what I had the pleasure of advising the Honorable Legation in my communication of August 28th, I have today presented to the National Congress a bill, to which this Ministry attaches the greatest importance, authorizing the Government to adhere to the pact in question.

In accordance with the constitutional provisions of Colombia, once this law has been approved by the Congress in the regulatory debates, the Government will be able to proceed formally to adhere to the pact in the manner established in Article 3 thereof and indicated in the notes of the Honorable Legation.

I avail myself [etc.]

CARLOS URIBE

711.1212Anti-War/11 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, November 3, 1928—11 a. m.

288. Your 286, October 23, 11 a. m. Department's instructions upon which your notes of September 24 and 28 were based, are to be interpreted as follows:

1. The giving by a Government of a notice of adherence to the Multilateral Peace Pact, subject to ratification according to its own constitutional or legal requirements, will be regarded as corresponding to the signature of the Pact by the signatory States and as placing the notifying State on the same basis as signatory States, requiring of the notifying State ratification of the adherence in accordance with its constitutional or legal requirements the same as signatory States are required to ratify.

2. It is not necessary for adhering States to await going into force of the treaty in order to give such notice, or to withhold until then

deposit of the final formal act of adherence, which is the equivalent of ratification by a signatory State, any more than it would be necessary for a signatory Government to withhold deposit of its act of ratification until all signatories are prepared to deposit.

3. Act of ratification by a signatory Government may be deposited at Washington at any time, and will become effective when the treaty comes into force by ratification of all the signatory Governments. So, in the same manner, formal acts of adherence by non-signatory Governments, perfected in accordance with their respective constitutional or legal requirements, may be deposited at any time, and if they are deposited before the date the treaty comes into force they also will become effective on that date.

4. Department regarded the Mexican Government's note of September 14 as notice of adherence of the character referred to in paragraph 1 above. If, as would appear to be the case by your cablegram, the Mexican Government desires to deposit its perfected instrument of adherence at Washington, the Government of the United States will be happy now to receive it in accordance with the foregoing statement.

5. This Government regards the procedure whereby a notice of adherence is given and ratification deposited by a non-signatory power before the treaty comes into force as an alternative to and as consistent with the procedure whereby such formal acts of adherence are deposited after the treaty comes into force between the signatory powers, in view of which interpretation no reason is seen for withdrawal of your notes of September 24 and 28 which, if Mexican Government so desires, may be merely acknowledged by that Government.

KELLOGG

711.3512Anti-War/17: Telegram

The Ambassador in Argentina (Bliss) to the Secretary of State

[Paraphrase]

BUENOS AIRES, *November 9, 1928—6 p. m.*

[Received 11:55 p. m.]

79. This afternoon during a call on President Irigoyen to bid him good-bye I brought up the subject of the anti-war treaty. He distinctly gave me to understand that his mind was made up; that the treaty was not one which appealed to him as a means of bringing about universal peace. He dwelt for some time on President Wilson's aspiration to create a League of Nations as a means for the prevention of war, and said that he had gladly responded to it but that when he realized the League was incapable of accomplishing President Wilson's idea he had withdrawn from it. As President of Argentina, he said further, he would welcome any suggestion from

the United States which might be made for a meeting of the powers for establishment of peace; his feelings toward the United States were most friendly but he felt that, although he was quite sympathetic to the theory presented by the anti-war treaty, it did not offer the possibilities for realizing universal peace which had always been the ideal and the policy of Argentina.

The foregoing is, in brief, the position the President took, and although I endeavored to controvert it I do not feel that I made any impression which would cause a change in his attitude.

After the interview, the Minister for Foreign Affairs, who was also present, insisted that the President's attitude should not in any way be interpreted as a lack of consideration for the United States. Both President Irigoyen and he were most amicably disposed toward the United States, but they did not wish to be parties to a movement which in their view would not realize the ideals which Argentina has always held.

This morning I also had a talk with Senator Molinari and gathered that his objection to Argentina's adhering to the anti-war treaty is based on United States policy of intervention in the Caribbean republics. I set forth the points contained in your No. 46, October 25, 3 p. m., and argued them with him for over an hour, but his attitude appears to be dominated by sentiment that our position is equivocal as long as United States troops remain in Nicaragua.

To make this unfavorable report is a deep disappointment to me, but I am satisfied that in view of President Irigoyen's well-known tenacity no further representations on my part in the immediate future would cause him to change his mind. I see no reason, therefore, why I should delay my sailing longer. As I expect to reach Washington about the middle of December I shall report the matter in more detail than.

BLISS

711.3412Anti-War/11

The Minister in Paraguay (Kreeck) to the Secretary of State

No. 666

ASUNCIÓN, November 17, 1928.

[Received December 19.]

SIR: I have the honor to transmit herewith, in copy and translation, Paraguay's official acceptance of the Multilateral Treaty for the Renunciation of War. Advice of the adhesion had been telegraphed to the Department on November 12,⁹⁷ at which time the President of the Republic, and the Minister of Foreign Affairs informed the American Minister of their acceptance.

⁹⁷Telegram not printed.

Among my colleagues the Paraguayan adhesion is considered a diplomatic triumph. Chile did not desire acceptance to be given and its Minister must be greatly disappointed.

The Minister of Foreign Affairs believes that with the proper approach Brazil will accept and likewise withdraw from the entente against the pact.

The writer is pleased to render such a report, and also to advise that President Guggiari stated there would be no question of its ratification at the coming session of Congress in April.

I have [etc.]

GEO. L. KREECK

[Enclosure—Translation]

The Paraguayan Minister for Foreign Affairs (Zubizarreta) to the American Minister (Kreeck)

No. 904

ASUNCIÓN, November 17, 1928.

MR. MINISTER: Referring to my note No. 618 of August 29 last, it is my duty to inform you that my Government accepts the treaty signed in Paris the 27th of August of this year, and by which the signatory Governments oblige themselves to renounce war, as an instrument of national policy in their relations among themselves, and to seek only by pacific means the arrangement or solution of every dispute that may arise among them, and that the project of adhesion of Paraguay to the said treaty will be submitted to the approval of the National Congress at an opportune time.

I avail myself [etc.]

G. ZUBIZARRETA

711.9412Anti-War/75 : Telegram

The Secretary of State to the Chargé in Japan (Neville)

[Paraphrase]

WASHINGTON, November 19, 1928—3 p.m.

123. Your despatch No. 977, October 8.

1. In your despatch under reference, the Department has noticed the statement that law officers of the Department of State are reported as being of opinion that conclusion of the customs treaty with the Nationalist Government in China constituted recognition of that Government.

2. The Government of the United States considers that the signing by the United States of a bilateral treaty, such as was signed by the Government of the United States and the Nationalist Government in

China, implies recognition. This Government does not consider that adherence by an unrecognized Government to a multilateral treaty of which the Government of the United States is a signatory or to which it is a party entails recognition by this Government. To attribute to the Government of the United States the "doctrine" in the third paragraph of your despatch under reference is erroneous. The adherence of the other Government is its unilateral act. Recognition is a matter primarily of intention, and intention on the part of the Government of the United States to recognize such other Government can not be imputed to this Government by an act of the other Government.

3. It is for the Japanese Government, of course, to decide what the action would be on its part that would constitute recognition of the Chinese Nationalist Government, and also whether ratification by Japan of the treaty for the renunciation of war to which China has adhered would constitute recognition of the Nationalist Government in China.

4. The Department is sending you this statement of the position of this Government for your information and discreet use.

5. With reference to the suggested reservation, the Department desires you to telegraph promptly if there is any likelihood that it will be seriously considered.

KELLOGG

711.1612Anti-War/6

The Chargé in Salvador (Dickson) to the Secretary of State

No. 1402

SAN SALVADOR, *November 19, 1928.*

[Received December 6.]

SIR: Referring to despatch No. 1323 of September 19, 1928,⁹⁸ informing the Department that the Government of El Salvador "is disposed to adhere" to the multilateral treaty for the renunciation of war, I have the honor to report that in accordance with the Department's unnumbered and undated circular instruction, two authenticated copies of the treaty in question were duly transmitted to the Minister for Foreign Affairs of El Salvador.

I have now received a reply, copy and translation of which are hereto attached,⁹⁸ stating that this "Government will, at an opportune time, issue the respective resolution on this so important matter".

The Department will, of course, be kept informed of developments.

I have [etc.]

SAMUEL S. DICKSON

⁹⁸ Not printed.

711.90 h 12Anti-War/7

The French Ambassador (Claudel) to the Secretary of State

[Translation]

WASHINGTON, *November 27, 1928.*

MR. SECRETARY OF STATE: My Government has just sent me, with a request that I transmit it to Your Excellency, the instrument by which the Government of Afghanistan declares its adhesion to the pact against war, signed in Paris August 27, last, the text of which had been communicated to it by the Minister of France at Kabul.

I have the honor to send herewith to Your Excellency the original document drawn up in the Afghan language, together with the translation that was delivered to the Minister of France. As the Legation of France at Kabul, however, could not certify that the French text was in absolute conformity with the Afghan text, my Government took pains to have the translation verified and Your Excellency will please find herewith also the minor remarks of mere form for which the said verification gave occasion.⁹⁹

Be pleased [etc.]

P. CLAUDEL

[Enclosure—Translation ¹]*The Afghan Acting Minister for Foreign Affairs (Mohammed Vali Khan) to the French Minister in Afghanistan (Feit)*[KABUL, *October 3, 1928.*]

MR. MINISTER: I have the honor to acknowledge receipt of Your Excellency's note No. 141 of August 27 with which you were pleased to send us, according to the instructions of the French Government and in the name of the Government of the United States of America not represented at Kabul, the pact for renunciation of war signed at Paris August 27, in order to ascertain whether the Afghan Government also would adhere to that pact.

The Afghan Government, animated by pacific sentiments, desiring that the bases of perpetual peace be established among the nations of the whole world and convinced that only a mutual and intimate association of all peoples, based on the principles of peace, and free from all ambition, could ward off the scourge of war and establish universal peace, is ready to adhere to and earnestly participate in the pact signed at Paris on August 27 last.

⁹⁹ For the Afghan text and the French translation with the French observations thereon, see Department of State, *Treaty for the Renunciation of War*, pp. 114-117.

¹ Rendered into English from the French translation of the Afghan text as verified by the French Government.

It is obvious that the pact is likely to bring forth effective improvements in international relations and open new horizons to universal peace.

Consequently the Afghan Government declares, by means of this letter, officially and for all pertinent purposes, its adhesion to the pact for renunciation of war as an instrument of national policy in reciprocal relations and sincerely and fully accepts the three articles which constitute the said pact.

It is understood that this full adhesion of the Afghan Government refers only to the text of the treaty in the same form as that kindly communicated by Your Excellency to me in your note No. 141 of August 27.

The adherence of Afghanistan does not relate to the other protocols, documents, notes, modifications, or comments that may have been drawn up or exchanged in behalf of one or more states on the subject of the said pact.

I beg Your Excellency kindly to make the decision of the Afghan Government officially known to the Government of the United States of America in the same way that you acted in the name of the last-named Government in transmitting to my Government the text of the Kellogg Pact and inquiring how it would be received.

MOHAMMED VALI KHAN

PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE FIFTH SESSION OF THE PREPARATORY COMMISSION FOR THE DISARMAMENT CONFERENCE²

500.A15/633

The Minister in Switzerland (Wilson) to the Secretary of State

No. 209

BERNE, December 16, 1927.

L. N. No. 1023

[Received January 7, 1928.]

SIR: I have the honor to refer to my previous despatches and telegrams relative to the fourth session of the Preparatory Commission for Disarmament, and to submit herewith certain reflections with which it seems desirable to occupy our thoughts in anticipation of the next session which will take place on March 15th. Certain new elements have entered into the situation,—that is to say the presence of the Russian delegation and the existence of the Security Committee. These elements and the point to which the discussion has progressed, have to a certain extent changed the problem and

² For correspondence concerning previous sessions of the Preparatory Commission, see Foreign Relations, 1926, vol. I, pp. 40 ff., and *ibid.*, 1927, vol. I, pp. 159 ff. The minutes of the fifth session, March 15–24, 1928, are printed in League of Nations, *Documents of the Preparatory Commission for the Disarmament Conference Entrusted with the Preparation for the Conference for the Reduction and Limitation of Armaments*, Series VI (C.165.M.50.1928.IX), pp. 227 ff.

make it necessary again to take stock of where we stand and what line of policy we should follow in the future.

It is of course of secondary importance from the point of substance, but undoubtedly the Russian resolution³ will come up for debate in the next meeting of the Preparatory Commission, and in anticipation of this it would be well that our delegation should receive careful instructions from the Government as to what attitude should be taken. You will desire to give a judgment, I think, upon the advisability from the American point of view of entering the arena definitely against this resolution. If you consider it advisable that we should play a minor role in this debate, I believe it would be quite possible for us to take the position that whatever might have been said as to the value of the idea, the form of the resolution is such in itself that we could not discuss it or even cast a vote on it. In this case we need have no fear that we will be left alone, since it is certain that many other nations will wage the battle against the Russians, which in its essence more nearly concerns them than us. If, on the other hand, you are of the opinion that the moment is ripe in the United States for certain definite pronouncements relative to this proposal, the debate would offer us the best sort of sounding board for the expression of any views which we might care to put out. If the Department does think it might be advisable to follow the latter course, the nature of the statement might well be reserved for future discussion, since there are various forms in which such a pronouncement could be made.

In regard to the real work of the Preparatory Commission, it appears problematical whether the Commission will begin a prolonged session as scheduled on March 15. As I have reported previously, the Security Committee will meet on February 20; even if they continue their debates through the March meeting of the Council they will have had barely three weeks in which to discuss a question of which no one can foresee the complexity and extent. It seems highly improbable, therefore, that on March 15 the Security Committee will be able to report any definite achievement to the Preparatory Commission, which situation will leave the delegates in the same state of mind in which they undertook the first reading of the convention in the third session; in other words, that feeling of security which the Security Committee has been summoned to create will hardly be present in the minds of the participating States as early as March 15. On the other hand, it seems unlikely that a further postponement of the gesture of the meeting of the Preparatory Commission will be made. Whatever

³ Resolution submitted Nov. 30, 1927 "to proceed immediately to the working out in detail of a draft Convention for complete and general disarmament . . ." See League of Nations, *Documents of the Preparatory Commission*, Series V (C.667.M.225.1927.IX), p. 11.

the desires of the majority of the States, and whatever feeling of insecurity still remains, undoubtedly the German delegation, aided by or aiding the Russians, will press for an immediate second reading of the convention.⁴ The efforts of these delegations will be strengthened in the minds of the other delegates by the insistence in the Assembly on the part of all the small powers for further efforts to reach prompt and tangible results on the disarmament question. The resultant of these two forces may well take the form of a perfunctory meeting of the Preparatory Commission which will from time to time and on varied excuses resolve itself into meetings of the Security Committee; it must be constantly borne in mind that aside from the American delegation, all the members of the Preparatory Commission are also members of the Security Committee, with the exception of the Russians, who act as observers when the Security Committee is sitting.

I turn now to the more important question of what the attitude of the American delegation should be in the event that the debate becomes more than perfunctory. As I said in the preceding paragraph, the technical phase of the Preparatory Commission is ended, and the views of the various governments are pretty thoroughly known. If we have no concessions to make, no modification of the position previously taken by us, it would seem clear that we have no chance of contributing in a constructive manner to the labors of the Commission. In this connection I venture to recall to the Department the difficulties attendant upon our making our position as to control and organization in the proposed draft disarmament convention so clearly known at the third session, that we were able to escape from the concentrated convergent movement to hold us up to world public opinion as the chief obstructionist necessarily rendering the labors of the Commission abortive. I am referring specifically to the situation which culminated, so fortunately for us, in Mr. Gibson's speech of April 13 last⁵ and the reception accorded it by the rest of the Commission—a reception which, as the Department will recall, was only brought about after very arduous preparation outside of the conference room. Although we weathered that storm, the various delegations still have it in mind that on a fundamental point we were the leaders in taking a position which rendered agreement on any draft convention vastly more difficult. If in the forthcoming stage of the Commission we must adopt a similar uncompromising attitude on various points both of substance and of procedure, we shall lay ourselves peculiarly open

⁴ For draft texts drawn up to serve as a basis for discussion at the second reading, see League of Nations, *Documents of the Preparatory Commission*, Series IV (C.310.M.109.1927.IX), p. 383.

⁵ See telegram No. 234, Apr. 13, 1927, 1 p. m., from Geneva, *Foreign Relations*, 1927, vol. I, p. 200.

to a natural attempt of the other delegations to shift onto us the onus of their, as well as our, failure to reach agreement. It therefore now becomes necessary to examine in some detail the record of the third session, and see on what points the Government may find it possible to offer some concession.

Without now going into detail on the various questions which were raised in the first reading of the third session, I submit for your consideration a possible procedure which might enable us to escape the reproach of obstructionism and at the same time retain for ourselves an active participation in those problems of primary importance to us. You may care to consider the advisability of allowing the delegation to state at some early stage in the proceedings that the American Government has given careful thought to the manner in which it could best be helpful in securing an accord which will be of real benefit; that we believe our army is so small and is reduced to such a point that any plan adopted would leave us a considerable margin beyond our present strength; that therefore unless our views are asked for or unless unforeseen circumstances arise, we propose, subject to the limitations expressed in Mr. Gibson's speech of April 13th on the subject of control, to abstain from debate on questions affecting the army in the hope that those nations with large armies will be able to work out for themselves some satisfactory basis of limitation; that our Government will then give most sympathetic consideration to the question of whether we can fall in with this plan, and in view of the already reduced army of the United States we hope and believe that our participation will be practicable. We have thus left to the military powers the solution of the question which primarily concerns them, as we believe that it can be most readily and effectively handled by them. On the other hand, we believe that as regards naval problems the greatest hope lies in having them handled by nations possessing large navies, and we suggest that the same procedure of courteous abstention on the part of non-navy powers which we propose to follow relative to armies might also carry the restriction of navies to a successful conclusion.

If the Department thinks well of this general policy in principle, I should be glad to submit more detailed suggestions. However, there is one point of substance which is so immediately important that I believe it should be submitted now, in order that the Department may have the longest possible time in which to give it consideration. Our attitude as to the limitation of navies may bring us into a position where we stand alone against the entire Conference. Recollection of the Conference for the Limitation of Naval Armament this summer brings clearly to my mind the fact that the Japanese delegation was ready and anxious to fall in with practically any plan which would

enable them to maintain roughly the 3-5 ratio and at the same time not spend another dollar on building; furthermore, the British building program appeared from behind every proposal the British made; they came back again and again with what they called proposals, and in each case when the non-essentials were stripped away the framework of the building program emerged unchanged. This would seem to show that the British are at present laying more emphasis on the necessity for the maintenance of this program than they are on limitation by tonnage,—a state of mind in which they are not far removed from the final compromise proposal offered by Paul Boncour toward the end of the first reading (see pages 225 *et seq.*⁶). It would not be any great jump for the British to accept the Boncour proposal as a basis for discussion in the next session, and it requires even less a stretch of the imagination to believe that the Japanese would acquiesce therein. Such a situation would leave us absolutely alone if we maintain rigidly our present thesis.

I am convinced of the essential soundness of our stand in regard to methods of naval limitation; it is in fact the only one which I believe will constitute a reasonable limitation in which we can regard the building programs of other nations without misgiving. It is to be borne in mind, however, that if the British abandon the stand which they took by our side during the work of the earlier sessions of the Preparatory Commission, and the Japanese take similar steps from different motives, we may readily find ourselves in an entirely isolated and distinctly uncomfortable position, regardless of the merits of our program. I feel that this situation may very readily arise, and that it is desirable that the Department give its most serious consideration at this early date to the course which should be followed by our representative at the next meeting of the Preparatory Commission; that it should consider whether there is any method by which our position can be maintained without laying us open to the charge of obstruction and without standing inconclusively for a lost cause. I confess that this seems almost impossible of achievement, and that it may be necessary for the Department, in view of the broader issues involved, to consider whether there is any measure of concession which can be made in return for a reciprocal concession which will secure the results we seek without jeopardizing our essential principles or compromising the position which we will probably have to maintain in the conference which will be called in 1931.

I have [etc.]

HUGH R. WILSON

⁶ i. e., League of Nations, *Documents of the Preparatory Commission*, Series IV.

500.A15/642 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, February 16, 1928—2 p. m.

[Received February 16—1:45 p. m.]

12. Secretariat announces officially provisional agenda for Preparatory Commission, March 15th, as follows:

1. Progress of the work of the Committee on Arbitration and Security;
2. Russian resolution; and
3. Progress of the work of the Preparatory Commission.

Under point 3 will [be] full discussion of whether or not the second reading of draft of convention is to take place this session.

Gibson notified.⁷

WILSON

500.A15/645 : Telegram

The Consul at Geneva (Tuck) to the Secretary of State

GENEVA, February 25, 1928—10 a. m.

[Received 12:25 p. m.]

Department's February 24, 2 p. m.⁸ The following is a brief summary of the draft convention of immediate and complete disarmament submitted by the Soviet delegation. Draft convention which begins with a brief preamble contains 5 chapters and 63 articles briefly summarized below:⁹

Chapter 1. Effectives of armed forces. This chapter contains principles of disarmament relating to effectives. Article 1 reads textually as follows:

"All military units and formations as well as [the effectives of the] land, sea and air forces, whether of the home country or of its oversea possessions, shall be disbanded within 4 years as from entry into force of the present convention and shall not in future be allowed in any way whether open or secret. Disbandment [of the] effectives shall be done in four successive stages:

(a) In the first year as from entry into force of the present convention to [*sic*] one-half effectives in service whether officials, officers or other ranks shall be disbanded and

(b) In the following year[s] remaining effectives in equal parts."

⁷ Hugh Gibson, Ambassador in Belgium. The Acting Secretary of State instructed Mr. Gibson by telegram on Feb. 6, 1928, 1 p. m., to proceed to Geneva as head of the American representation at the forthcoming session of the Preparatory Commission (file No. 500.A15P43/193a).

⁸ Not printed.

⁹ Bracketed corrections in arts. 1, 58, and 68 taken from text as printed in League of Nations, *Documents of the Preparatory Commission*, Series VI, pp. 325, 336, and 337.

Remainder chapter 1 develops in detail proposal to [*sic*] put forward by the Soviet delegation at the Fourth Preparatory Commission appearing in pages 16 and 17 provisional minutes first meeting.

Chapter 2. Material. Contains provisions regarding destruction material land, naval, air, armaments, fortifications, bases and military industries.

As regards naval armaments it provides for destruction capital ships, convoys, aircraft carriers, submarines. It allows use of disarmed war vessels as merchant vessels. All other smaller naval vessels including coast guard ships to be disarmed.

Disarmament of military air forces involves destruction heavy aircraft, otherwise military aeroplanes when disarmed can be used by civil organizations.

Chapter 3. Organization of protection on land and at sea. Protection on land provides that establishment of police forces or militia must be maintained within present limits for period of 4 years.

Protection at sea provides for organization of maritime police service and for this purpose waters of the globe are divided into 16 zones. Zones that would affect United States are number 7 (north-western section of the Atlantic Ocean) and number 7 [*14?*] (north-eastern section of the Pacific Ocean).

Chapter 4. Control. First article of this chapter provides that within 3 months of the coming into effect of the convention there shall be organized a permanent international commission of control, committees of control in each of the contracting states and local commissions. Functions, composition and duties of these bodies described in detail.

Paragraph [*Chapter*] 5 contains suggestions for conclusion of supplementary conventions and indicates procedure for ratifying conventions and settling questions arising out of violations. Articles 58 and 60 are quoted verbatim.

Article 58. Within one year of the coming into effect of the convention all the contracting powers shall enact legislation providing that a breach of any of the stipulations of the convention shall be regarded as a great [*grave*] offense against the state. At the same time all acts of national or international importance which are contrary to the above-mentioned clauses shall be repealed or amended.

Article 60. In the case of a direct breach of the present convention by one of the contracting powers [*states*], an extraordinary assembly of the representatives of contracting powers [*states*] participating in present convention [shall be summoned as expeditiously as possible] by the Permanent International Commission of Control to decide upon steps to be taken. Steps to be taken [*the steps taken*] to exercise pressure must not be of a military character. All disputes between States shall be settled by the Permanent International Commission of Control.

500.A15/646: Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

[Paraphrase]

BERNE, *February 27, 1928—4 p. m.*

[Received February 27—1:28 p. m.]

14. I conferred today with Gibson at Geneva. Both of us consider it important to receive early telegraphic instructions regarding subjects mentioned in my despatch No. 209, December 16, 1927, since we shall be unable to make preparation for forthcoming meeting of the Preparatory Commission until the Department's views are known to us. The advisability of proceeding with the second reading of the draft and the American attitude on the Russian resolution are questions we have particularly in mind.

Regarding the reading of the draft, if you do not wish us to follow some other course we should be inclined to refrain from comment unless it appears necessary and to leave the discussion of the question to delegations of other powers; in this case we should state that if the others are agreed we are prepared to proceed with the second reading but that we do not feel justified in making any proposal at this time.

WILSON

500.A15/646: Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

[Paraphrase]

WASHINGTON, *February 28, 1928—1 p. m.*

23. Your No. 14, February 27, 4 p. m. The suggestions contained in your despatch No. 202 [209?] and in letters to Marriner¹⁰ on the subject of the course to be followed by the American delegation at the forthcoming meeting of the Preparatory Commission have been carefully considered by me with the result that it appears wiser, by reason of developments which have taken place since the writing of the letters above mentioned, with special reference to the changes recommended by the House Committee on Naval Affairs in the naval program, not to assume the offensive at the opening of the meeting, either with a statement issued in the United States, which you might find it necessary to defend, or by an opening statement in any form to be made by you at the first meeting. The Preparatory Commission has met four times previously with practically the same personnel at every

¹⁰ J. Theodore Marriner, Chief of the Division of Western European Affairs. Letters not found in Department files.

meeting and is a continuing body; preliminary statements of policy do not therefore appear necessary. Any such effort on our part moreover would, in my opinion, be likely to give the impression that this Government felt it necessary to apologize for its past attitude or to defend itself against attacks on the subject of disarmament. It seems to me, furthermore, that there is not the slightest danger of a gratuitous attack on the naval question by Great Britain, and the opportunity for making such an attack would not be offered to any power before the Commission reaches the naval sections of the second reading of the draft convention.

In considering the Russian proposal, the whole idea is so impractical that no detailed discussion appears to be called for, and you might well content yourself, in my opinion, with agreeing with the delegates of those powers more immediately interested that a better ground for some hope of tangible and concrete results in disarmament is offered by the methods embodied in the draft conventions and partially agreed upon by the powers thus far represented on the Commission than by the Soviet Government's drastic scheme, although the latter may have been proposed in an earnest endeavor to be of assistance.

While, of course, it would seem of little use to proceed with the second reading of the draft convention if no report shall have been received from the Security Commission, nevertheless, the United States is not opposed to any procedure which other powers might find agreeable. Should a report have been forthcoming from the Security Commission the American attitude on this subject has been clearly evidenced by the exchange of notes with France on the proposal made by M. Briand,¹¹ in the attitude of the American delegation at the Havana Conference,¹² and in the position taken by the United States on the extension of the arbitration treaties.^{12a} The documents pertinent to these subjects will be transmitted to you by members of the American representation who are sailing on March 3, and I believe that these documents will enable you to show the eagerness of the United States to contribute to the security of the world so far as it can by the development of the resources of inquiry, conciliation and arbitration, not only in the Western hemisphere, the region of its primary interests, but throughout the world, as indicated by its manifest desire to conclude bilateral arbitration pacts with specific countries, and "likewise a multilateral treaty open to subsequent adherence by any and all other Governments, binding the parties thereto not to resort to war with one another".

¹¹ See pp. 1 ff.

¹² See pp. 527 ff.

^{12a} See *Foreign Relations*, 1927, vol. II, pp. 615-630 *passim*.

Should the policies of this country be attacked on specific points you should, of course, vigorously state our position. Adequate material for such defense will be found in the proceedings at the Geneva Naval Conference¹³ and in our revised naval program. There will be sent to you among other documents, all pertinent papers on the naval program of 23 cruisers and 1 aircraft carrier, to be completed in 6 years and to be laid down within 3 years, as well as the House Committee's recommendations. It would be most desirable, in case of attack, to speak frankly. It seems best, however, to leave to your discretion the question of such replies, which can be made when you feel that the appropriate occasion has arisen and after you have sounded out the sentiment of the meeting.

The French naval attaché has informed Admiral Jones of conversations in Paris between Vice Admiral Kelly, who will be the naval adviser to the British Delegation to the Preparatory Commission, and the Chief of the French Naval Staff. These conversations indicate that the French, while maintaining their thesis of total tonnage in principle, are willing to alter the Boncour proposal. For the life of any treaty to be concluded, a division of tonnage would be made into five groups, namely: Capital ships, aircraft carriers, service auxiliary vessels between 2,000 and 10,000 tons, service auxiliary vessels under 2,000 tons, and submarines. Since the first two categories of this division are presumably fixed until 1936 (or for the life of the treaty) by the Washington Agreement,¹⁴ only discussion of the remaining three classes is left open. The French would desire, furthermore, as a qualification to the division above mentioned, that any one of the categories might be increased by a percentage to be agreed upon but that such percentage, of course, would have to be deducted from one or both of the other columns; and, moreover, that six months, or preferably a year's notice, should be given of any changes in the subgroupings. Some such scheme, according to the Navy, would be acceptable to this country in principle and might result in substantial progress toward ultimate agreement between the naval powers. The pertinent documents on this subject will be taken to Geneva by Admiral Jones.

Since the third session of the Commission there appear to have been no developments which would necessitate a departure from the stand we have previously taken on air and land armaments or any modification of the instructions in the premises.

KELLOGG

¹³ See *Foreign Relations, 1927*, vol. I, pp. 1 ff.

¹⁴ Treaty of February 6, 1922, for the limitation of naval armament, *ibid.*, 1922, vol. I, p. 247.

500.A15/682

The British Embassy to the Department of State

AIDE-MÉMOIRE

His Britannic Majesty's Ambassador has the honour to make, by instructions from His Majesty's Principal Secretary of State for Foreign Affairs contained in a despatch dated the 24th of February last, the following communication to the Secretary of State:

Among the most important of the British proposals at the Geneva Naval Conference were those which aimed at a reduction of the maximum displacement and armament, and an extension of the life, of capital ships as fixed by the Washington Conference. They were never more than superficially considered owing to the instructions received by the United States and Japanese delegations to defer any discussion of them until complete agreement had been reached on the limitation of auxiliary vessels for which the conference had primarily been called. There were indications however that, if such agreement had materialised, these capital ship proposals would have received, at the least, a considerable measure of support.

His Majesty's Government in Great Britain attach great importance to this question, from the point of view both of limitation and of economy. They therefore propose to revert to it at the next session of the Preparatory Committee on Disarmament, but it is not their intention in the committee itself to do more than allude to their proposals, in broad terms, as representing an important contribution to the reduction of armaments generally.

WASHINGTON, *March 9, 1928.*

500.A15/682 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

[Paraphrase]

WASHINGTON, *March 10, 1928—5 p. m.*

32. For Gibson and Wilson. The following *aide-mémoire* was left by the British Ambassador, who called on me this morning:

[Here follows the text of the *aide-mémoire* printed *supra*.]

Inquiry was made by Sir Esme regarding the attitude of this Government on the question of the reduction in size of battleships and the extension of the life of such ships. In reply I informed him that there was no difference in the present attitude of this Government and its attitude last summer, and that, in view of the fact that until after 1931 no battleships could be replaced, no agreement at

this time seemed necessary, especially in view of the fact that Italy and France were under no obligation to attend a conference until that year, and since they had not been represented at the Naval Conference at Geneva. The Ambassador's attention was recalled to the fact that you had been authorized by me last summer to state that a conference would be called by the United States on the first of January 1931, so that ample time would be given for any contemplated plans for changes. The Ambassador asked whether any hostility to the general idea would be felt by this Government and was told that while I could not commit the Government in this matter I did recall that the Secretary of the Navy had felt that a substantial saving might be made by the extension of the life of battleships, although the saving brought about by such means would not be as great as stated. In my opinion, the Ambassador understood that no such proposition would be considered without the inclusion of some compensations intended to bring about absolute equality. The Ambassador further stated that his Government desired to ascertain whether other signatories to the Washington Treaty would give sympathetic consideration to this subject in order that plans, based on a reasonable prospect of the acceptance of the proposition, might be made before 1931. In reply I said that, of course, if the British decided to sound out other governments on this question it was their affair but that since it did not concern the Preparatory Conference I saw no reason why it should be taken up during the sessions of that body. On this point the Ambassador concurred. In my opinion, the considerations set forth in your instructions during the Naval Conference and those indicated in this conversation will adequately cover any contingencies likely to arise on this subject.

KELLOGG

500.A15/661 : Telegram

The Chief of the American Representation on the Preparatory Commission (Gibson) to the Secretary of State

GENEVA, March 12, 1928—7 p. m.

[Received 10:45 p. m.]

2. Wilson and I called this afternoon on Colban, chief of the Disarmament Section Secretariat. He is of course unable to foresee duration of forthcoming meeting.

Point 1 of agenda will probably result in formal adoption of Security Committee's report since it was drawn up by practically the same membership as that of the Preparatory Commission and they can probably have little to add.

Point 2. Feeling in regard to the Russian proposal is divided. While there is an element in favor of dismissing the proposal as un-

worthy of serious consideration it seems probable that they will either be given a full discussion immediately with a view to convincing public opinion of their futility or referred to a subcommittee for careful study with a view not only to demonstrating their futility but also to deferring the second reading of draft convention as this obviously could not be undertaken prior to debate on Russian proposal since the latter is a radical amendment to our whole scheme and has precedence under our method of procedure.

3. There is a nearly unanimous feeling more harm than good would result by embarking upon the second reading before making a determined effort to reach a larger measure of agreement by direct relations between various governments. Colban's impression was that while the Germans will protest against delay they will not be unduly insistent and that possibly they would be satisfied by a proposal to have the third commission of the Assembly, which is made up of the representatives of all member states, examine the progress of the work next September. To this body certain nonmember states such as the United States, Russia and Turkey would be invited.

GIBSON

500.A15/663 : Telegram

The Chief of the American Representation on the Preparatory Commission (Gibson) to the Secretary of State

[Paraphrase]

GENEVA, March 12, 1928—10 p. m.

[Received 10:30 p. m.]

5. Remarks which I propose to make in opening session may or may not lead to debate. Should they do so, I may be questioned on certain points. I now foresee some of the questions which may be asked, and I should be pleased to have your instructions in order that my own understanding may be quite clear.

1. Question may be raised that for complete renunciation of war it would have been sufficient to have said that the parties renounce all war as between themselves; that use of expression "renounce war as an instrument of national policy" [apparent omission] for a certain limitation or modification of a complete renunciation of war.

2. Questions may be asked in regard to joint or reciprocal nature of the obligation in a treaty which is multilateral; in other words, should nation A violate treaty with relation to nation B, have the right of nations C and D been violated thereby? Should violation of A towards B take place, does any obligation still rest on C and D, or does A's aggression against B result in automatically relieving them of all obligation under the treaty?

GIBSON

500.A15/665 : Telegram

*The Secretary of State to the Chief of the American Representation
on the Preparatory Commission (Gibson)*

[Paraphrase]

WASHINGTON, March 13, 1928—3 p. m.

1. Your telegrams 4, 5, 6, and 7.¹⁵ Apparently you received the impression from my telegram No. 23, February 28, 1 p. m. that it was my desire that you take an opportunity to discuss, in an address before the Commission, our pending negotiations in regard to arbitration, conciliation, and the Briand proposal for the renunciation of war. Such was not my intention at all. Your proposed speech, and indeed any statement of such a nature, would without doubt be interpreted as an invitation from the United States virtually to transfer to Geneva our pending negotiations and open them to detailed discussion before the Conference. The agenda of the Conference does not include these matters, and I shall not assent to their being placed on the agenda or to their being brought into the Conference indirectly. If others should mention this Government's attitude in regard to arbitration, conciliation, or renunciation of war, it would be necessary for you to do nothing more than make a declaration that this Government's attitude has been set forth clearly in the published correspondence in the pending negotiations. The documents were transmitted to you for your information and, if desirable for Commission's information, to be furnished to it. You are directed, therefore, not to make the proposed speech, or any speech, regarding the subject.

An address which is to be delivered by me in New York on the evening of March 15 will contain a further public declaration of the policy of the United States in regard to war prevention.¹⁶ Paris has been supplied by cable with the text of this address, and has been instructed to forward it to the principal missions in Europe, including Geneva, and by this time you should have it.

KELLOGG

500.A15/663 : Telegram

*The Secretary of State to the Chief of the American Representation
on the Preparatory Commission (Gibson)*

[Paraphrase]

WASHINGTON, March 13, 1928—5 p. m.

3. Your telegram No. 5 of March 12. I particularly desire that the questions you suggest should not be answered in Geneva. These are

¹⁵ Telegrams Nos. 4, 6, and 7 not printed.

¹⁶ For text, see *The War Prevention Policy of the United States: An Address by Honorable Frank B. Kellogg, Secretary of State of the United States, Delivered before the Council on Foreign Relations at New York City, March 15, 1928* (Washington, Government Printing Office, 1928).

questions which have place only as between the parties concerned in direct negotiations for the concluding of a treaty. There is no reason why the nations represented in the Preparatory Commission should inquire into the meaning or language of a treaty proposed by France to the United States, and which is still being discussed. If you are asked any such questions, you should state that the party in question should take up negotiations on the matter in Washington.

KELLOGG

500.A15/672 : Telegram

The Chief of the American Representation on the Preparatory Commission (Gibson) to the Secretary of State

GENEVA, March 19, 1928—7 p. m.

[Received March 19—5:30 p. m.]

10. At this afternoon's session Commission reached discussion of Russian proposals. An able presentation by Litvinoff concluded with the assumption that the country which had presented to the world the idea of the multilateral pact outlawing war would from the logic of events feel obliged to support Russian proposals.

Bernstorff¹⁷ spoke at some length supporting to a rather surprising extent the fundamental ideas of the Russian proposals and said he felt they should be discussed in detail in connection with second reading of the draft protocol which must take place at this session.

Turkish delegate completing group which is evidently agreed to work together also called for careful consideration in plenary meeting.

After this there was a long and embarrassing silence, following which the chairman said as no one appeared anxious to speak he would adjourn the meeting until four o'clock tomorrow afternoon when certain delegates had expressed a desire to speak.

[Paraphrase.] All of the delegations, as far as I know, are anxious that there should be a prompt disposal of the Russian proposals and an early adjournment of the second reading, but it appears that no one has the courage to stand up against the attacks of the Russians. It is my belief that if we assumed a leadership in this matter, enough courage would be summoned up by other delegations to deal with the situation, but I cannot perceive why this task should be undertaken by us for the benefit of other more immediately concerned countries. It is my intention, therefore, as far as possible, to keep free of the debates, and this course will be followed unless the circumstances are so altered that intervention in harmony with the Department's previous instructions becomes essential. [End paraphrase.]

GIBSON

¹⁷ Head of the German delegation.

500.A15/674 : Telegram

The Chief of the American Representation on the Preparatory Commission (Gibson) to the Secretary of State

[Paraphrase]

GENEVA, March 19, 1928—8 p. m.

[Received 8:28 p. m.]

11. No decision has as yet been reached as to how to deal with Soviet proposals despite repeated consultations among the interested delegations. Several courses are under discussion:

1. Full discussion immediately.
2. Reference of the matter to a small committee on which the leading delegates have already informally all refused to serve.
3. Placing the Russian proposals in column clause by clause opposite draft of first reading. This draft already has parallel columns on most points giving divergent views.

If the third course is adopted the result will be that in the second reading each clause will give rise to a new debate upon the fundamental differences between complete disarmament and the limitation of armament. This would inevitably involve us in debate on practically every point with the Soviet representative.

I cannot help feeling that this procedure would not only be futile but intolerable and that we should consider seriously whether it would be worth while for us to continue should it be adopted. I feel certain that the states bordering on Russia would take this view and that some others would also if they realized what are the implications of such procedure.

If the above course seems about to be adopted, you may feel that you can allow me to point out that the two ideas are fundamentally irreconcilable; that, therefore, it is useless to try to assimilate the details of the Soviet proposals with those of our first reading draft; that such a procedure would lead us away from the work entrusted to us on an endless discussion as to provisions for limitation of armament versus complete disarmament; that if this course is adopted we would have to consider, perhaps with other governments, whether we could continue with any profit to participate in the work of the Preparatory Commission.

Such a statement would be, I think, entirely effective.

I venture to ask for immediate instructions, as this situation may arise at any moment. It may come up tomorrow afternoon.

GIBSON

500.A15/672 : Telegram

*The Secretary of State to the Chief of the American Representation
on the Preparatory Commission (Gibson)*

[Paraphrase]

WASHINGTON, *March 20, 1928—noon.*

4. With reference to your 10, March 19, 7 p. m., your conclusion that it would be most desirable to abstain as far as possible from participation in debate on the Russian proposals is heartily endorsed. The proposals are not of primary interest to this Government and we should not assume a leading role in the discussions under any circumstances.

KELLOGG

500.A15/674 : Telegram

*The Secretary of State to the Chief of the American Representation
on the Preparatory Commission (Gibson)*

[Paraphrase]

WASHINGTON, *March 20, 1928—1 p. m.*

5. Your telegram No. 11 of March 19, 8 p. m. I think your suggestion would not be advisable if it means a complete withdrawal from the Preparatory Commission. From your reports I judge that there is slight hope for the Conference now continuing or accomplishing anything, and if we should withdraw it would give them just the chance they are looking for to step out from under and put the blame on us. As far as possible we should avoid any action which it is clearly foreseen would give an opportunity to other powers to place the blame on the United States.

I am in sympathy with your ideas, and I think that you should, of course, make every effort to avoid taking part in such a useless discussion. If a sufficient number of countries are willing to join, it might have some effect to issue a statement that such a procedure is useless and to intimate that there is no use of continuing to participate on such a basis, but care should be taken that the Conference be given no opportunity to blame our Government.

You may wish to consider suggesting to one of your colleagues that the Preparatory Commission might very properly ask the Council of the League for instructions as to the competence of the Commission to consider a plan for total disarmament when it was called by a resolution to prepare the way for a conference to reduce and limit armament. This Government would not care to make such a proposal, as we are not a member of the League. If made, the

suggestion should be to the representative of a state which is in the League and preferably represented on the Council.

It would not be sufficient reason for us to withdraw should the proceedings be reduced to futility by the amalgamation of the Soviet proposal with draft treaties already under consideration, in case the interested countries are unable to find other means of dealing with the Soviet plan. I see no reason why, in conjunction with your colleagues from the great powers, a resolution could not be drafted stating that the utopian idea of total disarmament could not be discussed with profit until a degree of limitation and reduction had been attained which would prove the sincerity of the desire of the peoples of the world to work for disarmament as the ultimate goal, and that the Preparatory Commission should therefore proceed in accordance with its original program.

KELLOGG

500.A15/676 : Telegram

The Chief of the American Representation on the Preparatory Commission (Gibson) to the Secretary of State

GENEVA, March 21, 1928—1 p. m.

[Received 1:15 p. m.]

12. As you will have seen from the press, speeches were made in direct opposition to the Soviet proposals in yesterday's meeting, notably by the British delegate but also by Italian, French and Japanese. Again this morning the proposals were attacked by the Netherlands and Swedish delegates.

Since all the great powers except ourselves had expressed their opinions in open session, since continued silence on my part was becoming more conspicuous than a speech—as I was constantly questioned informally as to America's attitude—and since the Soviet representative had made direct reference to the United States (see my telegram March 19, 7 p. m.), I thought it well to speak in this morning's meeting.

I touched briefly on our belief in multilateral pact (mentioned by Litvinov) and expressed belief in this method of approach and disbelief in the proposal as impracticable and incapable of attaining avowed ends.

I then spoke in the sense of your instructions in No. 23 to Berne¹⁸ and discouraged further expenditure of time by postponing immediate consideration of drastic proposals.

GIBSON

¹⁸ *Ante*, p. 242.

500.A15/681 : Telegram

The Chief of the American Representation on the Preparatory Commission (Gibson) to the Secretary of State

GENEVA, March 23, 1928—11 a. m.

[Received 12:20 p. m.¹⁹]16. Your 6, March 22, 1 p. m.²⁰ Text of my speech follows:

"A considerable number of delegates have already stated their views regarding the proposals now before us and have treated the subject more or less exhaustively. I do not propose to deal with the matter at length but feel that it may be desirable for me to make a brief statement as to the views of the American delegation.

To begin with, I should like to touch upon one remark which was made in the course of debate on Monday to the effect that in the opinion of one of the delegations, sincerity, consistency and logic should impel the country which had proposed a multilateral pact against war to support the proposals now before us for immediate and complete disarmament.

I do not feel warranted in taking up the time of this Commission with a lengthy statement on this point. However, in order that there may be no room for misunderstanding I venture to trespass upon your time to the extent of saying that it is precisely on grounds of sincerity, consistency and logic that my Government supports the idea of a multilateral pact renouncing war as an instrument of national policy and at the same time finds itself unable to support drastic proposals for immediate and complete disarmament which we do not believe are calculated to achieve their avowed purpose.

Any other attitude on the part of my Government would be lacking in sincerity, consistency and logic, for my Government believes in the one project and disbelieves in the other. We believe that the idea behind the proposal of a pact for renouncing war can be made effective as an articulate expression of an almost universal will for peace; we believe that such an expression is more effective at this time than any scheme, however drastic, for doing away with weapons. We have always stated as our conviction that as we build up the will for peace and confidence in peaceful methods for settling international disputes through regional agreements or otherwise our needs for armaments will automatically decrease. We have never believed that the converse was true and the suppression of armaments would alone and by itself have the effect of creating the confidence which is essential to the successful conclusion of our task.

To turn now to the aspect of the problem which is immediately before us we have been told that one compelling reason for adopting the project for complete disarmament is that public opinion throughout the world is impatient of less drastic measures and insists upon immediate and comprehensive action. I submit that if public opinion were as clamorous as we have been told for action upon drastic schemes such as the one now before us it is inconceivable that this

¹⁹ Telegram in two sections.

²⁰ Not printed.

should not have become apparent to us and to our governments. It is to be remembered that in most countries the expression of public opinion is free and unfettered; that governments are responsive to the will of the people and if the people were convinced of the effectiveness of such drastic schemes there is no doubt that they would make their wishes so clearly and unmistakably known that no government could ignore those wishes and survive.

In the course of debate a number of my colleagues have expressed their belief that we need more time for a careful analysis and consideration of the proposals now before the Commission inasmuch as the draft convention was placed in our hands only about a month ago. I venture to point out in this connection that the essentials of the present scheme, of which the convention is merely an elaboration, were placed before the Commission at its November session and that we and our respective governments have therefore had more than three months in which to consider. To my mind however this is neither here nor there. So far as I can recollect it has never been the practice of our Commission to assign committees to study proposals or refer them back to governments for examination if in the first general discussion it became evident that they were not acceptable in principle. I see no reason in the present instance for deviation from this sound and time-saving practice.

For our present purpose it would seem sufficient to point out that the proposals are not only a radical departure from the work we have been engaged upon so far but that they are totally irreconcilable with the draft which is the basis of our discussions. We are engaged upon a study of how to effect a limitation and reduction of armaments by agreement. We are now asked to scrap this work which is the result of several years of negotiation and to accept in its place the total and immediate abolition of armaments. I will confess that the American delegation is unable to see how the two can possibly be reconciled and discussed simultaneously. The question before us is whether we shall continue on the task entrusted to us according to the method approved by our various governments or whether we shall suddenly scrap what has been done and embark upon an entirely different enterprise on the basis of proposals of a type which has frequently been considered in the past and invariably rejected as unworkable.

Incidentally if it is felt that some of the points suggested under this convention would be of assistance in the preparation of our draft, certainly it is to be expected that the representative of any country will in the second reading introduce such amendments to the clauses as they now stand as they may see fit. However, it would certainly seem a cumbersome and unprecedented procedure to give further exhaustive study to the whole of an elaborate scheme presented by a single delegation in order to get the possible benefits of certain clauses therein.

For the reasons I have stated, the American delegation would not feel justified in asking for a delay in order that these proposals might be given further detailed study. So far as we are concerned we feel that we have only one problem—to find and follow the path best calculated to lead us expeditiously to the conclusion of our labors; we are convinced that that path is to be found in the continuance of our previous endeavors, and that we are not justified in abandoning or

unduly delaying our efforts in order to embark upon another task which we honestly believe cannot facilitate the reduction and limitation of armaments.”

Comment follows.²¹

GIBSON

500.A15/684 : Telegram

The Chief of the American Representation on the Preparatory Commission (Gibson) to the Secretary of State

GENEVA, March 23, 1928—4 p. m.

[Received March 23—3:50 p. m.]

18. The question of date for our next meeting having arisen and it having become evident that there was a disposition to choose an early fixed date although it was generally recognized that we might not be able to undertake serious work, I felt it desirable to point out that I had encountered persistent reports that we were going to press for an immediate second reading and that it was advisable that our position be made clear. While we were ready to proceed with a second reading now if it was felt there was sufficient measure of agreement to justify this course, we would on the other hand accept the general verdict if it was decided that in the interest of the work an adjournment should be taken. As to choosing a date I pointed out that, as the United States in common with several other countries had to send its technical staff long distances to attend these meetings, I hoped it would be possible to choose in such a way as to obviate long and unsatisfactory journeys; that we had already had two meetings on arbitrarily chosen dates; and that in this instance I would suggest that the chairman be asked to keep in touch with the progress of direct negotiations for the purpose of harmonizing divergent views and that he be requested to convoke us as soon as in his opinion it would be possible to proceed with a second reading with reasonable prospect of success.

GIBSON

500.A15/686 : Telegram

The Chief of the American Representation on the Preparatory Commission (Gibson) to the Secretary of State

GENEVA, March 23, 1928—8 p. m.

[Received March 23—6:57 p. m.]

19. Morning and afternoon sessions entirely inconclusive.

Resolutions were introduced by the Bureau²² to take note of the fact that most delegates declined to accept the principle of Russian

²¹ Not printed.

²² The Bureau of the Preparatory Commission, composed of the president and vice presidents of the Commission, together with officials of the Disarmament Section of the League of Nations Secretariat.

proposals; that some desired to refer them to their governments; that German resolution concerning publicity of armaments be deferred to second reading; and that second reading be left to president to summon at a date not later than next Assembly. No definite action was taken regarding any of them although they were discussed in the utmost confusion.

Russians stated their proposals having been rejected they would cooperate in partial disarmament and to this end the Russian delegation was introducing a new draft for which they demanded immediate first reading.²³ The president ruled that this draft could not be discussed at this session. Russians objected. President then reserved his ruling declaring it to have been his personal opinion on a point which must be decided by the Commission tomorrow.

There has not been such an entirely futile and unedifying session since the Commission began.

GIBSON

500.A15/687 : Telegram

The Chief of the American Representation on the Preparatory Commission (Gibson) to the Secretary of State

GENEVA, March 24, 1928—4 p. m.

[Received 4:25 p. m.]

20. Following letter just handed me by Cushendun²⁴ who is communicating its substance to the press:

"You may remember that in a speech which I made last Tuesday in the Preparatory Committee on the scheme of the Soviet Government for immediate and complete disarmament I was impelled to refer to the great progress in disarmament which had been achieved since the war, notably by the Washington convention. I referred to a statement which had already been made by the British delegation at the Naval Conference in Geneva last year showing that my Government were prepared, if the other signatories would agree, to carry even further certain of the principles of that convention by reducing the maximum displacement of capital ships and the caliber of their heaviest gun and by extending the accepted life of vessels of that class.

Having referred in a somewhat incidental way, which the character of my speech made unavoidable, and in indefinite terms to these proposals, I should like to take this opportunity of reminding you and my other colleagues representing powers signatories to the Washington convention of their exact purport.

²³ For text of draft, see League of Nations, *Documents of the Preparatory Commission*, Series VI, p. 347.

²⁴ Lord Cushendun, British representative on the Preparatory Commission.

The proposals of my Government are:

First. To reduce the size of any battleship to be built in the future from the present limit of 35,000 tons displacement to something under 30,000 tons;

Secondly. To reduce the size of guns in battleships from the present limit of 16 inches [to] 13.5 inches; and,

Thirdly. To extend the accepted life of the existing capital ships from 20 to 26 years, this involving a waiver by the powers of their full rights under the replacement tables agreed upon at Washington. Such an arrangement would naturally have to provide for some little elasticity on each side of that figure.

It would obviously be of advantage if such a step were agreed upon that should be taken in time to enable it to become effective before the commencement of the capital ship replacement program which is provided for by the Washington convention."

GIBSON

500.A15/691 : Telegram

The Chief of the American Representation on the Preparatory Commission (Gibson) to the Secretary of State

GENEVA, March 24, 1928—12 p. m.

[Received March 25—5:30 a. m.]

24. My 20, March 24, 4 p. m. Cushendun's letter handed me during final afternoon session of Commission and came as complete surprise. Cushendun and Admiral Kelly left immediately afterwards for London, so I had no opportunity to discuss proposals or learn why they were presented here.

We have declined to discuss matter with press and have taken the stand that comment must come from Department.

GIBSON

500.A15/777 : Telegram

The Ambassador in Belgium (Gibson) to the Secretary of State

BRUSSELS, September 18, 1928—2 p. m.

[Received 2:55 p. m.]

60. Loudon,²⁵ chairman of the Preparatory Commission, writes that question of next meeting is under consideration and asks my opinion as to the date. British against fixing date at present. Germans and French insistent on early meeting (this insistence is due to internal political exigencies and delegates admit privately no progress can be expected). Loudon expresses opinion that it is unwise to fix date until United States "has defined its attitude in regard to the Anglo-French

²⁵ J. Loudon of the Netherlands.

compromise."²⁶ Request Department's instruction as to reply to be made.

Department might wish to consider an answer to the effect that, while we think it is desirable to meet as soon as we can embark upon a second session with reasonable hope of progress, we feel that to hold another meeting like the last three merely to recognize deadlock and adjourn would be most unfortunate and in the long run would be prejudicial to eventual achievement.

He requests prompt reply.

GIBSON

500.A15/777 : Telegram

The Secretary of State to the Ambassador in Belgium (Gibson)

[Paraphrase]

WASHINGTON, September 19, 1928—1 p. m.

64. In regard to your 60, September 18, 2 p. m., you had better tell Loudon that you have referred his inquiry to me. As far as I can see, it cannot be answered until I have an opportunity to confer with the President who is leaving today for Vermont and does not expect to return to Washington until Saturday.

A reply to the French and British notes on the naval agreement is now being considered.²⁷ In my opinion its acceptance is not possible. Should we, however, state our objections the other powers will lay the blame for breaking up the Conference at our door. They will probably do the same if we send no reply. No answer has been sent by Italy. Any conference called in order to put through a compromise would of course be impossible. What course would you advise under the circumstances? In my opinion there is no intention of making an agreement on limitation on the part of any of the nations. The conference is insisted upon for political reasons.

KELLOGG

500.A15/810 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

[Paraphrase]

BERNE, October 30, 1928—6 p. m.

[Received October 30—3:25 p. m.]

104. Eric Colban, chief of the League Secretariat Disarmament Section, is leaving tonight to confer with Loudon in Paris. The Secretariat, according to reliable information, considers that it is

²⁶ See pp. 264 ff.

²⁷ See telegram No. 329, Sept. 25, 3 p. m., to the Chargé in France, p. 282.

time to attempt to break the deadlock on the question of naval disarmament, and Colban intends to suggest that Loudon call together a group of naval experts of the naval powers for informal discussions of the whole question in the hope that a solution may be found.

The outcome of such a scheme does not appear to me very hopeful, particularly if no new proposal has been worked out to submit to the meeting. The failure of the naval agreement between England and France is too recent for the willing acceptance by these Governments of new technical discussions unless the broad outlines are previously agreed to by the interested governments.

Have mailed copy to Brussels and Paris.

WILSON

500.A15/812 : Telegram

The Consul at Geneva (Rand) to the Secretary of State

[Paraphrase]

GENEVA, November 6, 1928—1 p. m.

[Received 3:40 p. m.]

Referring to telegram 104, October 30, 6 p. m., from Legation at Berne. Eric Colban, back from Paris where he has seen Loudon, tells me that there is no intention on the part of Loudon of approaching the naval powers in regard to conversations preliminary to the meeting of the Preparatory Commission, because Loudon prefers to wait until the British Government replies to the American note concerning the Franco-British naval agreement. Colban added that to a certain extent the date of the next session of the Preparatory Commission would depend upon whether or not there were to be preliminary conversations and, therefore, upon the reply of the British Government. Apparently the initiative in this subject belongs to Great Britain rather than Loudon.

A source which is usually well posted informs me confidentially that the French and British Governments are discussing the date of the next session of the Preparatory Commission. The British favor January or early February whether private conversations are held beforehand or not. Officials of the French Government are in agreement except Paul-Boncour, who favors leaving the date of the session unsettled until divergencies on naval questions have been discussed, since he is afraid that the next session may not be successful without preparation of this sort.

Both Loudon and the French Government appear to prefer that the British take the initiative in approaching the American Government on the naval question.

Copy to Gibson by mail.

RAND

500.A15/818 : Telegram

The Ambassador in Belgium (Gibson) to the Secretary of State

[Paraphrase]

BRUSSELS, *December 1, 1928—3 p. m.*

[Received December 1—1:25 p. m.]

79. Yesterday I discussed the future work of the Preparatory Commission with Loudon, the chairman of the Commission, who came from Paris in order to see me.

In his opinion, to hold another meeting before some kind of agreement is reached between Great Britain and the United States would be disastrous. The French, he feels, now realize that further fruitless meetings are dangerous as allowing the Soviet Government a chance to cause trouble. No difficulty is expected by him in postponing meetings for about six months, but at the end of that time pressure for some sort of meeting is feared.

In my opinion Loudon feels that by suggesting the resumption of discussions on the naval question through the Preparatory Commission he burnt his fingers, and he will now attempt to induce the governments interested to agree to postpone more or less indefinitely the meeting of the Commission on the theory that in an agreement between Great Britain and the United States lies the only hope for future progress.

Loudon was informed by me that I could not give him the views of the Department on this subject, but that, in my personal opinion, I agreed that if it was obvious that no further progress was possible there was no purpose in holding a meeting.

Wilson has been sent a copy.

GIBSON

500.A15/822 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

[Paraphrase]

BERNE, *December 6, 1928—4 p. m.*

[Received December 6—2:15 p. m.]

118. Referring to Ambassador Gibson's 79, December 2[1], 3 p. m., and Consul Rand's 11, political, November 9.²⁸ Drummond²⁹ seemed considerably worried in a recent conversation lest the next session of the Preparatory Commission should cause a wrangle between Great Britain and the United States. Believing that the character of the resolution adopted in the Assembly and the moral pledge to Germany

²⁸ Latter not printed.

²⁹ Sir Eric Drummond, Secretary General of the League of Nations.

necessitate an early meeting of the Preparatory Commission, Drummond is of opinion that it would be wise from a strategic point of view to call a short session in February with a limited agenda from which an attempt should be made to exclude naval questions. The date of future conference to cover all questions including naval could be placed sufficiently far in the future to allow the hope of some measure of agreement between the United States and Great Britain.

For my part I concur in his fears of increased bitterness being given to the disagreement between the British and ourselves in the Preparatory Commission and believe that there is only a remote possibility that publicity and debate on naval questions can be prevented in view of the presence of the Russians. Loudon's program outlined in telegram 79 from Gibson appears much better and he should be urged to maintain it if possible. Nothing which may take place in the Preparatory Commission could be more important than our relations with Great Britain are to both of us.

Gibson has been sent a copy.

WILSON

500.A15/S24 : Telegram

The Ambassador in Belgium (Gibson) to the Secretary of State

[Paraphrase]

BRUSSELS, *December 10, 1928—5 p. m.*

[Received December 10—4:23 p. m.]

81. Referring to Minister Wilson's 118, December 6, 4 p. m. There is no purpose in seeking to convince Secretary General Drummond, although the governments of all principal members of the League, except Germany, are opposed to a meeting at an early date of the Preparatory Commission, if he feels that the calling of an early session is necessary, or if more specific instructions on this question are issued by the present meeting of the Council. Furthermore, it is highly probable that Loudon will concur in the view of the Secretary General.

A meeting at the present time, in my opinion, cannot be other than harmful, and the value of the Secretary General's suggestion of a limited agenda from which naval matters are to be excluded is questionable; there has been general disregard of the agenda at former sessions, and I doubt if the stirring up of bad feeling by the Russians could be prevented, even if British and American delegates did not enter into discussion in such an eventuality; there would still be the danger that the cudgels would be taken up by the press in such a manner as to aggravate the situation.

There might be, if there were any hope of general progress at the next session, some reason for running risks as to our relations with

Great Britain. However, since as far as we can foresee now, there is no such hope, the avoidance of a meeting appears important, as its only result will probably be to embitter the relations of the two countries.

The decision, as far as I can ascertain, practically rests with Germany, the sole League member now urging a meeting and doing so for the purposes of internal politics, and with the Government of Italy. As a nonmember of the League the United States obviously cannot take any initiative, but no similar objection prevents action by the British Government, who in this matter have interests similar to our own. I venture to suggest, in view of the importance of the issues involved, the possibility of placing the entire question frankly before the British, explaining the reluctance of the United States toward a meeting which in all probability will be utilized for the stirring up of dissension between the two countries, and inquiring if the British feel justified in a serious discussion of the matter at Berlin, with a view to convincing the Germans that since no hope of accomplishing anything exists at the present time, they are not warranted in holding out for a meeting distasteful to most of the other governments; and that Germany will assist the movement toward disarmament better in the long run by letting the Secretary General know her preference that the adjournment be extended, in the belief that no reasonable hope of progress lies in an early meeting. There is little doubt that, if this course is followed, the Secretary General would be able to canvass Council members and secure the authority of the Council for a generous breathing spell as in previous cases.

GIBSON

500.A15/835a : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, December 15, 1928— $\frac{1}{4}$ p. m.

107. *New York Times* article by Carlyle Macdonald under Lugano date-line December 8, states that French and League officials were informed by an American Minister to a European country

“that it was the view of the present administration at Washington that the grave subject of naval disarmament must be postponed until President-elect Hoover and his advisers should have had an opportunity of studying it or in other words after the inauguration.

After a careful discussion and some exchanges with Washington it is understood the American Minister requested, and the others agreed, that the meeting of the preliminary commission should be postponed for one or two months, pending which time the projected direct conversations between Great Britain and the United States might have borne results.”

Also that suggestion "that M. Loudon be instructed to call a 'consultative parley of five naval powers' was turned down by the American Minister as being of no value in the face of the present complete disaccord between the British and the Americans." Later article of similar tenor of December 13 quotes you as the Minister concerned. In his press conference yesterday the President said that he had noticed a press report to the effect that there was some suggestion that this administration did not desire to take any further part in the disarmament question which is being discussed under the leadership of the League. He stated that this movement is under the League and would of course have to be carried on by them irrespective of the attitude of this Government. He added that this Government has never indicated that it desired postponement of the discussions and that it is always ready to cooperate with the League Committee.

[Paraphrase.] The Department knows, of course, that you did not make the remarks which have been attributed to you, but it wished you to have President's statement immediately.

I am told by Assistant Secretary of State Castle that he has answered questions of both British and French officials by saying that it would be unfortunate in the general interest of cause of limitation of armaments for meeting of the Preparatory Commission to be held in the immediate future unless there was some prospect of accomplishment, and that cause would be served better by frankly postponing such meeting until there could be at least some measure of agreement. Without doubt this is true. It is clear, also, that attempts will be made to put blame for delay on this Government, and that we cannot, as a nonmember of the League, ask for a postponement. While I should be glad, therefore, if view expressed by Loudon to Gibson in favor of a postponement of meeting of the Preparatory Commission should prevail, I feel that attitude expressed by President Coolidge should be adhered to firmly. Repeat to Gibson. [End paraphrase.]

KELLOGG

500.A15/834 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, December 17, 1928—noon.

[Received December 17—11:30 a. m.]

123. Drummond telephoned this morning that during Lugano session the three powers mostly interested, namely Great Britain, France and Germany, agreed to advise Loudon to call meeting of the Preparatory Commission between the 8th and 15th of April (the latest date to which Stresemann³⁰ would agree). Drummond stated that the date was not made definite since they recognized that the mem-

³⁰ Gustav Stresemann, German Minister of Foreign Affairs.

bers of the American delegation coming from the United States might desire to remain home over Easter which occurs March 31. He asked me to obtain an unofficial expression of opinion from you as to which time would be most convenient for the opening of the session between these dates.

Copy to Gibson.

WILSON

500.A15/834 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, December 17, 1928—7 p. m.

109. Your 123, December 17, noon. You can tell Drummond that this Government is prepared to send delegates at any time. The dates mentioned are satisfactory but we should also be satisfied with an earlier date.

KELLOGG

500.A15/850

The Minister in Switzerland (Wilson) to the Secretary of State

No. 693

BERNE, December 28, 1928.

L. of N. No. 1253

[Received January 30, 1929.]

SIR: Referring to my telegram No. 132, of December 28, 9 a. m.,³¹ I have the honor to transmit herewith eight copies of the communication received from the League of Nations³¹ stating that Mr. Loudon had convened the next session of the Preparatory Commission for April 15, at 11 a. m. A copy has been forwarded to Mr. Gibson at Brussels.

I have [etc.]

(For the Minister)

PIERREPONT MOFFAT

Secretary of Legation

REJECTION BY THE UNITED STATES OF THE FRANCO-BRITISH
COMPROMISE PLAN FOR NAVAL LIMITATION³²

500.A15Franco-British/1

The British Chargé (Chilton) to the Secretary of State

No. 358

BEVERLY FARMS, MASS., July 31, 1928.

[Received August 1.]

SIR: I have the honour to inform you, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, that

³¹ Not printed.

³² For records of negotiations, including those with the Italian and Japanese Governments, published by the French and British Governments, see France, Ministry of Foreign Affairs, *Limitation des armements navals: Trente-cinq pièces relatives aux travaux préparatoires du désarmement*, etc. (Paris, Imprimerie des Journaux Officiels, 1928), and Great Britain Cmd. 3211, Miscellaneous No. 6 (1928), *Papers Regarding the Limitation of Naval Armaments*.

preliminary conversations have proceeded between His Majesty's Government and the French Government in the hope of finding a basis for naval limitation which might prove generally acceptable and thus render fruitful the resumption of discussions in the Preparatory Commission for the Disarmament Conference³³ whose failure to record any progress during the last eighteen months has been the source of universal disappointment. To this end the two Governments have agreed substantially to modify the positions which they held respectively at the meeting of the Commission in March 1927, and have worked out proposals on the following lines, which they are themselves ready to accept and which they hope will serve to promote general agreement.

The limitations which the Disarmament Conference will have to determine will deal with four classes of men-of-war :

- (1) Capital ships, i. e. ships of over 10,000 tons or with guns of more than 8 inch calibre.
- (2) Aircraft carriers of over 10,000 tons.
- (3) Surface vessels of or below 10,000 tons armed with guns of more than 6 inch and up to 8 inch calibre.
- (4) Ocean going submarines over 600 tons.

The Washington Treaty³⁴ regulates limitations in classes (1) and (2) and the Disarmament Conference will only have to consider the method of extending these limitations to Powers non-signatory to this Treaty.

As regards Classes (3) and (4), the final Disarmament Conference will fix the maximum tonnage applicable to all Powers, which no Power would be allowed to exceed for the total of vessels in each of these respective categories during the period covered by the Convention. Within this maximum limit, each Power will indicate at the final Conference for each of these categories, the tonnage they propose to reach and which they undertake not to exceed during the period covered by the Convention.

I am instructed to inform you of the terms of the above compromise between hitherto divergent views and to express the earnest hope of His Majesty's Government that it may prove acceptable to the United States Government.

His Majesty's Government believe it to offer the best, if not the only, prospect of making an advance from the present position, and they are confident that the Governments of other principal Naval Powers will examine it with the utmost sympathy.

His Majesty's Government will be grateful to receive a reply as soon as possible and at all events before the meeting assembles on September 3rd.

I have [etc.]

H. G. CHILTON

³³ See pp. 235 ff.

³⁴ Treaty of February 6, 1922, for the limitation of naval armament, *Foreign Relations*, 1922, vol. I, p. 247.

500.A15Franco-British/9

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, August 2, 1928.

SIR: I have the honor to acknowledge the receipt of your note of July 31, 1928, in which you inform me of the result of the preliminary conversations which have proceeded between His Majesty's Government and the French Government, with the aim of finding a basis for naval limitation.

I thank you for informing me concerning the agreements reached, which agreements you suggest should be adopted by the Preparatory Conference as a basis for limitation.

In the note above referred to there are certain points which I do not fully understand. These points are as follows:

1. One of the categories of war vessels is stated to be as follows: "(3) Surface vessels of or below ten thousand tons armed with guns of more than 6 inch and up to 8 inch calibre."

I should be grateful if you would inform me whether this means that there is to be no limitation on any surface vessel armed with guns of 6 inch calibre or less. If this is the case, it appears that all destroyers might be built in unlimited numbers and that the same would be true of cruisers armed with 6 inch guns or less.

2. The fourth class is defined in your note as follows: "(4) Ocean going submarines over six hundred tons."

I should be glad to know whether this means that all submarines of 600 tons or less may be built free of any limitation.

3. The note further provides: "As regards Class (3) and Class (4) the final Disarmament Conference will fix the maximum tonnage applicable to all powers which no power will be allowed to exceed for the total of vessels in each of these respective categories during the period covered by the Convention. Within this maximum limit, each power will indicate at the final Conference through each of these categories the tonnage they propose to reach and which they undertake not to exceed during the period covered by the Convention."

I do not understand what the above provision means. If there is no limitation on destroyers or cruisers armed with six inch guns or less, there would be but one class limited, and that is cruisers armed with guns of more than six inches and up to eight inches. If, however, there is to be a limitation on destroyers and cruisers armed with guns of six inches or less, I do not understand why each power should be expected to indicate the tonnage it desires to build in these categories since the provision does not say that each nation must indicate the tonnage of each class in the category, and ap-

parently would be at liberty to build either cruisers or submarines to the full maximum tonnage. I should be very grateful if you would let me have the British Government's explanation of this clause in connection with the other provisions of the memorandum.

Accept [etc.]

FRANK B. KELLOGG

500.A15Franco-British/4½ : Telegram

President Coolidge to the Secretary of State

SUPERIOR, WIS., August 2, 1928.

[Received August 2.]

Please make no commitments concerning limitation of armaments.

CALVIN COOLIDGE

500.A15Franco-British/4 : Telegram

The Secretary of State to the Chargé in Great Britain (Atherton)

WASHINGTON, August 2, 1928—6 p. m.

180. I received yesterday from the British Embassy a communication from Sir Austen Chamberlain embodying the understanding reached between Great Britain and France in relation to naval limitation, with the added suggestion that it should be adopted as a basis for discussion by the Preparatory Conference. I have asked the Embassy for the explanation of certain points which I do not fully understand as follows:

[Here follows substance of the note of August 2, 1928, to the British Chargé, printed on page 266.]

[Paraphrase.] I think it might be well for you to see Chamberlain and discuss with him the various points covered by my inquiry. He will undoubtedly provide you with a copy of the agreement, should you not already have seen it, and I think you might be able through conversation to have more light thrown on the subject than I shall get in writing from the Embassy here. [End paraphrase.]

KELLOGG

500.A15Franco-British/6 : Telegram

The Secretary of State to President Coolidge

WASHINGTON, August 3, 1928—9:50 a. m.

Of course, I shall make no commitments whatever concerning the limitation of armaments and while abroad shall not even discuss it or any other question. The note which Great Britain sent me suggests a

basis for limitation of surface vessels below ten thousand tons armed with guns of more than six inch and up to eight inch calibre and for ocean going submarines over six hundred tons. It makes no suggestion as to total tonnage or ratio. The memorandum is somewhat obscure. After consulting with the Navy, I am simply asking the British Government to explain certain provisions in order that we may discuss it intelligently with the Navy. I am making no suggestions to Great Britain. I have no idea when the next preliminary conference³⁵ will meet. Probably not until some time late in the Autumn. Will write you fully as soon as I can have further conversation with Navy officials.

KELLOGG

500.A15Franco-British/7½

The Secretary of State to President Coolidge

WASHINGTON, August 3, 1928.

DEAR MR. PRESIDENT: I received your telegram yesterday and, as I wired you, I have no idea of making any commitments to the British or any other Government on the subject of the limitation of armaments.

Wednesday I received from the British Government through the British Embassy here the enclosed communication³⁶ on the subject of the agreement between Great Britain and France. I discussed the matter yesterday and today with officers of the Navy Department, Admirals Long and Scofield and Commander Train, who are familiar with all that took place at the Preliminary Conference during the last two or three years and also the discussions which took place at the Geneva Three Power Conference.³⁷

In the first place, I judge the memorandum to be an attempt to come to an agreement with France on the bases of limitation of naval armament to be submitted to the Preliminary Conference which adjourned some time ago and which is expected to meet again in the Autumn. During the discussions heretofore there has been a wide divergence between the British plan and the French. The French have insisted on what is known as a global tonnage, that is, that the total tonnage of all naval vessels which France might build should be fixed and that France might construct in any class of ships up to that total tonnage while Great Britain insisted that the tonnage must be agreed to as to each class, battleships, aircraft carriers, cruisers, de-

³⁵ i. e., the Preparatory Commission for the Disarmament Conference.

³⁶ Note No. 358, July 31, 1928, p. 264.

³⁷ See *Foreign Relations*, 1927, vol. I, pp. 1 ff.

stroyers and submarines. We took that same position at Geneva. Of course, battleships and aircraft carriers are already provided for so that leaves the other three classes of ships and we insisted, instead of a total tonnage for all three, that there must be a tonnage agreed upon for each class. Our position was the same in the Preliminary Conference but Admirals Jones and Long, with their experts, had discussed with France a modification of this plan which our Navy officials would have been willing to agree to, which authorized the twenty per cent. variation in the construction of ships of each class—that is, if one was increased, the other should be reduced.

I will not go into the details of this because before the Preliminary Conference reassembles, we shall have to examine the whole subject and, of course, present it to you upon your return to Washington. However, after discussing it with the Navy, we thought we ought to ask for some information. You will see from the British note that apparently they propose no limitation for surface vessels, that is, cruisers or destroyers, except those carrying guns of over six inch and up to eight inch calibre. If this is what their understanding is, it would leave all cruisers with six inch guns or less without any limitation at all and no limitation whatever on destroyers which I assume we could not agree to. Also apparently it would permit any country to build all the submarines of six hundred tons or less without any limitation. Of course, the size of submarines vary. Most of them are more than six hundred tons, especially the ocean-going ones. Nevertheless, a six hundred ton submarine can be very effective with a short range of cruising.

We shall make no reply to the note at all until we get the British answer and until the whole subject is studied and submitted to you. Of course, I cannot see how we could agree simply to limit cruisers carrying over six inch guns and leave the countries free to construct all the small cruisers they desire armed with guns of six inch calibre or less. In any event, I do not believe the Preliminary Conference would recommend any such proposition to a disarmament conference if there is one ever called. I think, however, that Great Britain is going to try very hard to get some plan to be recommended to a general disarmament conference and officials of the Navy Department are working on the whole subject for the next meeting of the Preliminary Conference.

Faithfully yours,

FRANK B. KELLOGG

500.A15Franco-British/5 : Telegram

The Secretary of State to President Coolidge

WASHINGTON, August 3, 1928—12:02 p. m.

After careful consideration with Admiral Long and others in Navy we asked the British Government what it meant by certain provisions in the tentative agreement as it was sent to the United States requesting an answer and will probably be published soon. We made no commitments in any way but simply asked for the meaning of certain clauses. We wished to know this before the document is published if we could. However, I have written you fully sending you copy of the British memorandum and our request. Will make no more communications without submitting them to you in advance.

FRANK B. KELLOGG

500.A15Franco-British/6½

President Coolidge to the Secretary of State

SUPERIOR, WIS., August 3, 1928.

[Received August 4.]

MY DEAR MR. SECRETARY: I have your wire relative to the British naval proposals. What I desire to have done in relation to these at present is nothing at all. I shall be back in Washington within a few weeks and we can take the matter up at that time. I would not have you even ask the British Government for any explanation of the proposals which they have made. Let the entire matter stand in abeyance. I note that you say, "I shall make no commitments whatever concerning the limitation of armaments and while abroad shall not even discuss it or any other question." That is exactly the correct position, which your good judgment as usual causes you to take. I do not especially like the meeting that is to be held in Paris.³⁸ While it is ostensibly to sign the treaty, I can not help wonder whether it may not be for some other purpose not yet disclosed. Of course, so far as this Government is concerned, it will neither discuss nor decide any other question of any kind or nature at the Paris meeting.

We had a nice visit with Mrs. Kellogg when I went to Cannon Falls, and she and her sister called at the Lodge the day before yesterday.

With kindest regards, I am [etc.]

CALVIN COOLIDGE

³⁸ i. e., meeting of the signatories to the treaty for the renunciation of war.

500.A15Franco-British/7

The French Chargé (Sartiges) to the Secretary of State

[Translation]

WASHINGTON, August 3, 1928.

MR. SECRETARY OF STATE: I have the honor to inform Your Excellency that the technical conversations entered into between the British and French Naval experts regarding the manner in which limitation of naval armaments might take place have resulted in a draft agreement approved by the two Governments and whose tenor is indicated in this communication.

This draft agreement is designed to replace the French compromise proposal submitted in the month of March, 1927, to the Preparatory Disarmament Commission, entrusted with drawing up a draft convention.³⁹

It had become evident during the fifth session of the Commission that this compromise proposal still gave rise to such differences of principle that it would be impossible to obtain a unanimous adhesion to the formulæ proposed. It had also become evident during the discussions that a preliminary agreement at least on principles was necessary before the meeting of the Commission, if a second reading of the draft Convention for the Limitation of Armaments was to take place effectively.

The conversations were, therefore, renewed between the experts of the British and French Governments and have resulted in the following proposals:

The limitations which the Disarmament Conference will have to determine would fix the number of classes of war vessels at four:

1. Line vessels, i. e., vessels of over ten thousand tons or armed with guns of more than eight inch caliber.
2. Aircraft carriers of over ten thousand tons.
3. Surface vessels of or below ten thousand tons armed with guns of more than six inch and up to eight inch caliber.
4. Ocean-going submarines, that is to say, submarines of over six hundred tons.

No limitation is provided for vessels not includable in one of these four classes.

The Washington Treaty regulated the limitations in classes one and two, and the Disarmament Conference will only have to examine the method of extending these limitations to powers non-signatory to this Treaty.

As regards classes three and four the final Disarmament Conference will fix a maximum tonnage applicable to all powers which no

³⁹ See League of Nations, *Documents of the Preparatory Commission*, Series IV, p. 361.

power will be authorized to exceed for the total of vessels in each of these respective categories during the period covered by the Convention.

Before the final conference, each power will indicate, within this maximum limit for each of these categories, the tonnage it proposes to reach and which it undertakes not to exceed during the period covered by the Convention.

The preceding provisions are summarized in the table of limitation of naval materiel annexed to this communication.⁴⁰

These are the provisions of the preliminary draft, which meets with the approval of the British and French Governments. The French Government earnestly hopes that the Government of the United States of America finds it possible to give this draft its approval and begs it to be so good as to inform it, if there is occasion to do so, of what amendments would be necessary to make its adhesion possible. The French Government is convinced that the adhesion of the great maritime powers to these proposals would mark an important date in the accomplishment of the work begun at the Washington Conference.

Please accept [etc.]

SARTIGES

500.A15Franco-British/10 : Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

LONDON, August 4, 1928—1 p. m.

[Received August 4—11:50 a. m.]

178. [Paraphrase.] Chamberlain came down with bronchial pneumonia early part this week. Crisis comes today but in any event he will be unable to return to the Foreign Office for several months. Lord Cushendun will shortly take over duties of Foreign Secretary until Chamberlain returns.

Today I talked with Sir Ronald Lindsay⁴¹ relative to your 180, August 2, 6 p. m., who stated that Franco-British agreement was a 50-50 compromise, that both sides had made concessions but that French had proved very difficult throughout negotiations and that eventually the British as *quid pro quo* had agreed to withdraw their objections in connection with French trained reservists. Sir Ronald appeared somewhat vague as to what these objections might be and stated that insofar as he was aware this particular clause which completed Franco-British agreement had not been communicated to the interested powers.

He also referred to attitude of the American press, whereupon I stated that American pressman who had visited me at the chancery

⁴⁰ Not printed.

⁴¹ British Permanent Under Secretary of State for Foreign Affairs.

had in some manner come to conclusion that the naval limitations only affected vessels in which the United States was interested. Sir Ronald replied that that was so. I asked him if there was any explanation. He replied in substance that he had no explanation except that as regarded Europe no further military disarmament seemed possible, especially with Russia in view, but that some form of disarmament must be accomplished here; hence the Anglo-French discussion. [End paraphrase.]

I thereupon referred to the points on which you desire information. The oral answer given me to your (1) is, "There is to be no limitation on any surface vessel armed with guns of 6-inch caliber or less."

The oral answer given me to your (2) is, "Submarines of 600 tons or less may be built free of any limitation."

The oral answer given me to your (3) is, "The provision you quote textually refers only to classes 3 and 4 ["], and he informed me there is no limitation on destroyers or cruisers armed with 6-inch guns or less and there is thus but one class of surface vessels limited and that is cruisers armed with guns of more than 6-inch and up to 8-inch guns except as obviously limited by the Washington treaties.

ATHERTON

500.A15Franco-British/13 : Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

LONDON, August 10, 1928—5 p.m.

[Received 5:45 p.m.]

184. [Paraphrase.] Lord Cushendun assumed his duties as Acting Foreign Secretary yesterday and at his request Marriner⁴² and I called upon him this morning.

Cushendun said that he wished very much to avoid any complications that might be brought about by a misinterpretation of the Franco-British agreement concerning the principles of naval reduction by the press. . . . [End paraphrase.]

He said that he had been struck by the obvious misunderstanding of both the American and European press of the nature and scope of the Anglo-French conversations which he said had been merely the effort of Great Britain as representing a school of thought on naval subjects in which England had been in close agreement with, on the one hand, the United States and Japan during all the course of the Preparatory Commission, and French as representing the divergent

⁴²J. Theodore Marriner, Chief of the Division of Western European Affairs.

point of view on the other, and that any agreement arrived at between them could only serve as a point of departure for discussion with all members of the Preparatory Commission.

Marriner stated that he felt that due to the publicity given the statement in Parliament⁴³ the American press had taken the whole thing as a definite fixed agreement upon which Great Britain and France would stand even in opposition to the other members of the Commission. Lord Cushendun emphasized his conviction that there was nothing whatever of this kind and that his Government had only been interested in making some progress toward the solution of Preparatory Commission problems as envisaged in the two opposing draft conventions now before it. Marriner and I are quite convinced of his sincerity. Marriner then referred to the press reports especially in France concerning the withdrawal of the British objection to the French thesis on trained reservists. Lord Cushendun said that he did not feel that any agreement had been reached on this point but that his Government had indicated that it might be willing to withdraw this objection in case progress could be made on the naval question. He stated in an aside that this objection could probably never be sustained in any case. He pointed out that Great Britain, and he presumed the United States, was not essentially interested in the question of land forces. Marriner then referred to the wording of the Foreign Office telegram to Chilton asking an American reply before September 3rd and questioned this urgency. Lord Cushendun said that he believed the desire for a reply had been in order that all information possible on this subject should be available at the opening of the League Assembly but that he personally felt that this was not in any way important since any information obtained could only be of actual use at the time of the next meeting of the Preparatory Commission although undoubtedly at the forthcoming meeting of the Assembly many questions would be asked of these Anglo-French discussions. In fact Cushendun gave as his preference that no answer be given until more time had elapsed for American consideration and for a simmering down of the press discussions. He added that the British Embassy in Washington would be instructed to judge in this sense.

Cushendun then inquired what might be done to correct general press opinion on this subject particularly in the United States. Marriner suggested that if it were possible some form of statement be made either on the part of Lord Cushendun himself or of the Foreign Office setting forth the idea that Great Britain as representing one school of thought at the Preparatory Commission on

⁴³ For statement by the British Secretary of State for Foreign Affairs (Chamberlain), July 30, 1928, see Great Britain, Cmd. 3211, Miscellaneous No. 6 (1928), p. 28.

naval questions had made an effort to reach some compromise proposals with France as head of the opposing school of thought and had requested the reaction of the other powers thereto. Marriner said that the question of the combination of the categories of cruisers and destroyers would no doubt cause difficulty for the United States which had a great preponderance of destroyers and Cushendun said that the Anglo-French compromise was of course not altogether satisfactory to Great Britain which would welcome any attempt of the American authorities to discuss with France the maintenance of the present categories. He said that he regretted that he had no engagement for a public speech in the immediate future, but he would cause Willert to be instructed to attempt to find an opportunity to give out from the Foreign Office to the newspaper reporters information of this nature and hoped that if this proved feasible something of a similar nature might be done in Washington.

A copy of any remarks Willert gives out here on this subject will be telegraphed to the British Embassy in Washington.

[Paraphrase.] Both Marriner and I feel that Cushendun is attempting to remove any atmosphere of suspicion touching this whole subject and is not in any way endeavoring to obtain any international recognition for British Foreign Office. From manner in which he intends to handle this matter we have concluded that he was looking forward to opportunity of renewing his acquaintance with you when you are in Paris for signature of the renunciation treaty, since he remembered you so vividly from your days in London, and that he hoped you would not feel under any pressure to answer questions raised by the Anglo-French conversations before your departure. Cushendun's reception of us confirmed a statement which a member of the Government made to me that with his taking office any American question would meet with understanding attention.

Copy sent to Brussels.

ATHERTON

500.A15Franco-British/137 : Telegram

*The British Acting Secretary of State for Foreign Affairs (Cushendun) to the British Chargé in Washington (Chilton)*⁴⁴

[LONDON,] 10 August, 1928.

Addressed to Washington, Telegram unnumbered of August 10th. Repeated to Rome, Tokio.

I gather there is a certain amount of misapprehension at Washington as to the exact scope and purpose of the Anglo-French proposals for the limitation of naval armaments.

⁴⁴ Copy apparently left with the Secretary of State; date of receipt not indicated.

As you are aware work of League Preparatory Commission for Disarmament Conference has broken down largely as the result of a deadlock between British and French delegates in regard to principle on which process of naval limitation should be based. At meeting of Preparatory Commission last March British and French delegates announced that conversations were taking place between the two Governments, which might lead to some arrangement if time were allowed for the purpose. Work of Preparatory Commission has from the first been based on two drafts submitted by British and French Governments respectively in March 1927, His Majesty's Government advocating the retention of the principle agreed upon at Washington of limitation by categories and the French Government advocating the principle of global tonnage. The aim has been to reconcile these by producing an agreed text which would necessarily represent a compromise between divergent views expressed in rival drafts. Clearly the first step towards such an agreement was to arrive at an accord between the two Governments responsible for the original drafts. The compromise telegraphed to you represents a successful attempt to do this, but we realise that it is no more than the first step which we hope may lead to a general agreement among the Powers represented on the Preparatory Commission enabling them to draft [an agreed] skeleton Convention (leaving figures blank) for submission to Disarmament Conference. In the divergencies of views which appeared at the outset between the British and French Governments the view of the United States was in principle in agreement with that of Great Britain and as the compromise now reached with the French goes a considerable way towards meeting the views of the United States and ourselves we entertain the hope that it will have the approval and support of the American Government. But we emphasise the fact that this Anglo-French agreement is not a treaty or even a final binding agreement in regard to naval disarmament. Unless it should lead to the signing of an agreed Convention at Geneva its purpose will not have been achieved and it will be necessary to make further attempts to arrange a compromise if we are not to abandon all hope of a limitation of armaments by international agreement.

This compromise has now been submitted to the United States Government in order that they may consider its terms and, should they see fit, give us the benefit of their observations and of any suggestions which may occur to them.

Premature publicity in regard to the details of the proposals would clearly be undesirable. Both His Majesty's Government and the United States Government have been criticised on the ground that there was insufficient preparation between Governments before Geneva Naval Limitation Conference last year. However this may be we consider it very desirable that confidential preparatory conversations

which we hope will take place between the two Governments before the meeting of the League Preparatory Commission at Geneva should not be prejudiced by premature publication. It seems only necessary to say to the Press that conversations are taking place between the Governments concerned with a view to the resumption of work of the Preparatory Commission and that it would obviously be prejudicial to their ultimate success if tentative proposals are at every stage to be prematurely published.

It has been stated in Press telegrams that this naval agreement with the French represents a bargain one part of which is that His Majesty's Government agree to support the contention of the French Government in the matter of military reserves. Here again there is some misapprehension. His Majesty's Government have reluctantly reached the conclusion that it will be impossible to move the French [and the] majority of other European Governments from the attitude which they have consistently adopted on this question and that in [present] conditions no further progress in regard to land disarmament will be possible as long as this stumbling block remains in the way. They do not therefore propose to offer any further resistance to the French contention at the present time. It is not believed that any American interest can be prejudiced by withdrawal of His Majesty's Government's opposition on the military reservist question. An agreement on land disarmament, even if it is in our view not entirely satisfactory in the matter of military reservists would represent an important stage in the general progress of disarmament and would be far better than no agreement at all. Moreover acceptance of the French Government's thesis on reservists question will have important effect on [of?] winning French Government over to British and American side in the matter of classification to be adopted as a basis for naval limitation.

A reply before September 3rd was suggested in my telegram of July 30th because it was feared at that time that a meeting of the Preparatory Commission might be called before meeting of the Assembly. We ourselves should have much regretted premature summoning of Commission but might have been powerless to prevent it. There now seems little further risk of a meeting being summoned at that time. In the circumstances United States Government will no doubt prefer to defer replying until there has been time for a full consideration of the new proposal in all its bearings. It is of course feasible [*desirable*] that a meeting of the Preparatory Commission should not be summoned until Powers principally concerned have had sufficient time for reflection.

You should read this telegram to Mr. Kellogg at earliest opportunity.

[File copy not signed]

500.A15Franco-British/15

The British Chargé (Chilton) to the Secretary of State

No. 380

BEVERLY FARMS, MASS., August 11, 1928.

[Received August 13.]

SIR: I did not fail to convey to His Majesty's Principal Secretary of State for Foreign Affairs the text of your note of July 29th [August 2d] making certain enquiries regarding the result of the preliminary conversations which have proceeded between His Majesty's Government in Great Britain and the French Government with a view to finding a basis for naval limitation.

I have now been informed that the same enquiries were made in London on August 4th by the Charge d'Affaires of the United States, and I presume that you are already in possession of the information which was supplied to Mr. Atherton in reply to his questions.

I have [etc.]

(For His Majesty's Minister)

RONALD CAMPBELL

500.A15Franco-British/16 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, August 11, 1928—3 p. m.

255. For Marriner. Reference to Atherton's telegram No. 184, from London, August 10, 5 p. m., regarding your conversation with Lord Cushendun. The President desires that neither I nor any of our Embassies discuss further the Anglo-French agreement on subject of naval disarmament, and nothing will be done here in regard to it until the President returns to Washington.⁴⁵ Transmit copy to our Embassies London and Brussels.

KELLOGG

500.A15Franco-British/41 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, September 12, 1928—4 p. m.

[Received September 12—3:30 p. m.]

201. The atmosphere is clearing in regard to the Franco-British naval understanding. We now see a molehill where we formerly

⁴⁵ This sentence was also telegraphed as an instruction to the Embassies in Germany (No. 89), Italy (No. 97), and Japan on August 22.

saw a mountain. Apart from the value of the agreement, the awkward manner in which it was announced by Chamberlain in the House of Commons and the fact that it was not made public embarrassed the Foreign Office and caused the British public to think that without their knowledge an effort was being made to prepare an entente with France as in 1904 and 1906. Perhaps there may have been an ulterior purpose in Chamberlain's mind. But, if so, such a possibility has been utterly destroyed by the sharp reaction here. Doubtless France would welcome another entente but Great Britain would have nothing to do with it.

The following seems to be the state of affairs. On all sides Chamberlain has been urged to prevent a failure of the Preparatory Commission. Last spring Fleuriau⁴⁶ discussed the subject informally with him. In June Chamberlain stopped in Paris on his way to Geneva and discussed, without reaching a conclusion, disarmament prospects with the French President.

The present agreement was later submitted to him by the French. Chamberlain took this before the Cabinet and the Cabinet accepted it. Such is the origin of the present agreement as far as it concerns naval questions. It was not put forward as a binding agreement but merely as a compromise which both France and Great Britain might accept and submit to the Preparatory Commission. I understand that Italy has already stated to the Foreign Office that it cannot accept the agreement as it stands. I do not know the Japanese standpoint.

May I offer the following suggestions in regard to our answer? I believe that a sharp refusal to accept the agreement would simply allow the Foreign Office to escape from its present embarrassment and to state that we had killed a well meant effort aimed to save the Preparatory Commission from failure. If our reply on the other hand is delayed, the Foreign Office may drop the matter and never refer to it again. Should it do so, our reply will not lose its emphasis. But I would suggest that your answer whenever made should follow roughly your note in answer to the original proposal of M. Briand.⁴⁷ In other words, state our sympathy with the object the agreement apparently strives to attain. Stress the desire of the President for reduction of naval armaments, and suggest that a discussion in which a useful result is anticipated should cover all classes not included in the Washington treaty instead of one or two selected types.

HOUGHTON

⁴⁶ French Ambassador in Great Britain.

⁴⁷ French Minister for Foreign Affairs. Apparently the reference is to Briand's proposal for a treaty with the United States for renunciation of war, *Foreign Relations*, 1927, vol. II, pp. 611 ff.

500.A15Franco-British/46: Telegram

The Secretary of State to the Ambassador in Italy (Fletcher)

[Paraphrase]

WASHINGTON, September 14, 1928—1 p. m.

104. Telegram received from Houghton contains statement that, according to his advices, Italy has already notified British Foreign Office that Anglo-French agreement is not acceptable to them in its present form. Reference is, of course, to Anglo-French understanding on basis of agreement for naval limitation. Although I understand that text of agreement has nowhere been published in full, you undoubtedly know about it from the press. I am not authorized to speak for President in this matter, but for your own information I am sure that the United States would never agree to the limiting only of cruisers carrying 8-inch guns and leaving entirely unlimited all cruisers which carry less than 8-inch guns, which Great Britain now desires to build. That is to say, what the United States could do would be limited, and what Great Britain wishes to do would be left unlimited. I should like to have you discuss this matter informally with the Italian Foreign Office and ascertain if possible Italy's attitude on it.

KELLOGG

500.A15Franco-British/51: Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, September 18, 1928—noon.

[Received 4:50 p. m.]

92. Department's No. 104, September 14, 1 p. m. I was told by Under Secretary Grandi this morning at the Foreign Office in an informal talk that Italy had not replied concerning the naval agreement to either France or Great Britain. The opinion of the Government here seems to be that public opinion is forming against the naval understanding in various countries and that for the time being no reply is necessary. I am informed by Grandi that de Martino has been instructed to talk the matter over with you informally. He suggests that it would be desirable for our two Governments to have an informal exchange of impressions.

I was informed by Grandi that the political significance of England and France coming to this agreement without the knowledge of Italy was more important to Italy than the technical side of the agreement. Furthermore he stated that while France had denied that secret arrangements existed regarding land forces, London having tried to

minimize their importance had seemed to tacitly acknowledge that some understanding on this subject between England and France had been reached.

Italy, according to the impression I gathered, fears that the naval understanding marks a change in the policy of Great Britain which will make her relations with Italy less close and less favorable than those with France.

The agreement was not discussed from the technical standpoint, but Grandi assured me of his willingness for further discussion at any time of this subject and of his desire to facilitate between our Governments an exchange of views concerning the agreement.

FLETCHER

500.A15Franco-British/63 : Telegram

The Secretary of State to the Ambassador in Italy (Fletcher)

[Paraphrase]

WASHINGTON, *September 22, 1928—10 a. m.*

105. At noon yesterday the Italian Ambassador read to me the following telegram which he had received from Premier Mussolini, and which he wished to communicate to me:⁴⁸

"I have been very much interested in the communication that has been made to me by the Secretary of State, Mr. Kellogg. Neither the United States nor Italy has given any answer to the Franco-British proposition. The point of view of Italy is not favorable to those proposals in their entirety. The proposal should have been made to facilitate the progress of disarmament. I have no reason to doubt the good intentions of the two governments but it is positive that in public opinion and in the press the accord has been received with many doubts and uncertainty. This increases instead of diminishes the difficulties and renders the more problematical the answer for me to give. On my side I shall wait some time before answering. If the Secretary of State will let you know in due time the conclusion at which the American Government will arrive this will be very gratifying to me and I could also take into account our point of view in the decision that we have to make concerning the definite attitude of Italy in this matter. I will communicate to you this decision as soon as I have made it so that you can inform the Secretary of State. Please have a confidential conversation with Mr. Kellogg on this matter."

I then said to the Ambassador that early next week I expect to present to the President a draft of an answer to the British and French proposals. I am quite sure, I told him, that this Government cannot adopt the Anglo-French agreement as a basis for negotiating for a limitation of armament. I said that I would not go into details

⁴⁸ Quoted passage not paraphrased.

now as my conclusions have not yet been approved by the President, but there are some objections to the agreement which seem to me to be apparent :

1. The agreement proposes only a limitation of cruisers of 10,000 tons or below that figure armed with guns of more than 6-inch and up to 8-inch calibre, leaving unlimited all cruisers that carry 6-inch guns or less;

2. It leaves unlimited all destroyers which can easily carry guns of at least 5-inch calibre and perhaps six;

3. It leaves unlimited all submarines of 600 tons or less, and only limits the larger submarines. A 600-ton submarine, I said, is just as destructive within the radius of its operations as a larger one; and I added that if we were going to have a limitation of armament it ought to cover combatant vessels of all kinds.

This Government is willing to take into consideration the special needs of France or Italy or any other naval powers for a particular class of vessel, and it would be willing, if an agreement as to a total limitation can be made, to vary the tonnage of particular classes of vessels within a certain percentage to be agreed upon. Object of this is that Italy or France or some other power may have the vessels which are more suitable to their defense.

I told the Ambassador that I am not authorized to state definitely that the foregoing will be this Government's answer, but that it is my view, which I believe will be adopted.

I also said that I had no objection to the Ambassador's communicating this information to his Government, of course subject to any change which the President after consulting with me and with the Navy Department may decide to make. I said further that I am inclined to think I shall send the answer sometime next week, but that I am not sure.

KELLOGG

500.A15Franco-British/66 : Telegram

*The Secretary of State to the Chargé in France (Armour)*⁴⁹

WASHINGTON, September 25, 1928—3 p. m.

329. Please prepare the following note on the subject of the Franco-British naval limitation agreement for delivery to the Foreign Office :

"The Government of the United States has received from the French Government a communication summarizing the understanding reached between the French and British Governments as to a basis of naval limitation, which agreement, it is stated, will be submitted to the next

⁴⁹ See last paragraph for instructions to repeat to London as Department's No. 215. For changes in text as presented September 28, see telegram No. 330, Sept. 26, 6 p. m., to the Chargé in France, p. 291.

meeting of the Preparatory Commission for the Disarmament Conference.

The Government of the United States, not knowing the full text of the agreement, finds it difficult to answer the French note, but is nevertheless willing to submit certain suggestions as to the basis of naval limitation as therein summarized. From the communication of the French Government it appears that:

The limitations which the Disarmament Conference will have to determine will deal with four classes of men-of-war:

- (1) Capital ships, i. e., ships of over 10,000 tons or with guns of more than eight inch calibre.
- (2) Aircraft carriers of over 10,000 tons.
- (3) Surface vessels of or below 10,000 tons armed with guns of more than six inch and up to eight inch calibre.
- (4) Ocean going submarines over 600 tons.

As the Washington Treaty regulates the first two classes, that is, capital ships and aircraft carriers, the Preparatory Commission will have to consider only the last two categories so far as the signatories of that treaty are concerned.

From the foregoing summary of the agreement it appears that the only classes of naval vessels which it is proposed to limit under the Franco-British draft agreement are cruisers of or below 10,000 tons, armed with guns of more than six inch and up to eight inch calibre, and submarines of over 600 tons. The position of the Government of the United States has been and now is that any limitation of naval armament to be effective should apply to all classes of combatant vessels. The Franco-British agreement provides no limitation whatsoever on six inch gun cruisers, or destroyers, or submarines of 600 tons or less. It could not be claimed that the types of vessels thus left without limitation are not highly efficient fighting ships. No one would deny that modern cruisers armed with six inch guns, or destroyers similarly armed, have a very high offensive value, especially to any nation possessing well distributed bases in various parts of the world. In fact, such cruisers constitute the largest number of fighting ships now existing in the world. The limitation of only such surface vessels as are restricted in Class 3 of the draft agreement, that is, cruisers of or below 10,000 tons, armed with guns of more than six inch and up to eight inch calibre, would be the imposition of restrictions only on types peculiarly suited to the needs of the United States. The United States can not accept as a distinct class surface combatant vessels of or below 10,000 tons armed with guns of more than six inch and up to eight inch calibre. It is further clearly apparent that limitation of this type only would add enormously to the comparative offensive power of a nation possessing a large merchant tonnage on which preparation may be made in times of peace for mounting six inch guns.

At the Three Power Conference at Geneva in 1927 the British Delegation proposed that cruisers be thus divided into two classes; those carrying eight inch guns and those carrying guns of six inches or less in calibre. They proposed further that eight inch gun cruisers be limited to a small number or to a small total tonnage limitation

and that the smaller class of cruisers carrying six inch guns or less be permitted a much larger total tonnage, or, what amounts to the same thing, to a very large number of cruisers of this class. The limitation proposed by the British Delegation on this smaller class of cruisers was so high that the American Delegation considered it, in effect, no limitation at all. This same proposal is now presented in a new and even more objectionable form which still limits large cruisers which are suitable to American needs, but frankly places no limitation whatever on cruisers carrying guns of six inches or less in calibre. This proposal is obviously incompatible with the American position at the Three Power Conference. It is even more unacceptable than the proposal put forward by the British Delegation at that Conference not only because it puts the United States at a decided disadvantage but also because it discards altogether the principle of limitation as applied to important combatant types of vessels.

Much of what has been said above as to vessels in Class 3 of the Franco-British agreement applies with equal or greater force to Class 4. The American Government can not accept as a distinct class of submarines those of over 600 tons leaving unlimited all submarines of 600 tons or under. Six hundred ton submarines are formidable combatant vessels. They carry the same torpedoes as are carried by larger submarines and of equal destructive force within the radius of their operation. They can also be armed with guns of five inch calibre. The United States would gladly, in conjunction with all the nations of the world, abolish the submarine altogether. If, however, submarines must be continued as instruments of naval warfare, it is the belief of the American Government that they should be limited to a reasonable tonnage or number.

If there is to be further limitation upon the construction of war vessels so that competition in this regard between nations may be stopped, it is the belief of the United States that it should include all classes of combatant vessels, submarines as well as surface vessels.

The Government of the United States has earnestly and consistently advocated real reduction and limitation of naval armament. It has given its best efforts towards finding acceptable methods of attaining this most desirable end. It would be happy to continue such efforts, but it can not consent to proposals which would leave the door wide open to unlimited building of certain types of ships of a highly efficient combatant value and would impose restrictions only on types peculiarly suitable to American needs.

The American Government seeks no special advantage on the sea, but clearly can not permit itself to be placed in a position of manifest disadvantage. The American Government feels, furthermore, that the terms of the Franco-British draft agreement, in leaving unlimited so large a tonnage and so many types of vessels, would actually tend to defeat the primary objective of any disarmament conference for the reduction or the limitation of armament in that it would not eliminate competition in naval armament and would not effect economy. For all these reasons the Government of the United States feels that no useful purpose would be served by accepting as a basis of discussion the Franco-British proposal.

The American Government has no objection to any agreement between France and Great Britain which those countries think will be

to their advantage and in the interest of limitation of armament, but naturally can not consent that such an agreement should be applied to the United States.

In order to make quite clear that, in declining to adopt the Franco-British agreement as a basis for discussion of naval limitation, it seems appropriate briefly to review the attitude of the United States regarding the methods of limitation, in order to show that the American Government has consistently favored a drastic proportional limitation. The success of the Washington Conference is known to all. It strictly limited all combatant ships and aircraft carriers of over 10,000 tons. In order to bring about such limitation the American Government made great sacrifices in the curtailment of plans of building and in the actual destruction of ships already built. At the first session of the Preparatory Conference, the American Government submitted proposals which were consistently adhered to at subsequent meetings:

- (1) That the total tonnage allowed in each class of combatant vessel be prescribed.
- (2) That the maximum tonnage of a unit and the maximum calibre of gun allowed for each class be prescribed.
- (3) That so long as the total tonnage allowed to each class is not exceeded, the actual number of units may be left to the discretion of each power concerned.

Within this general plan the American proposal at the Geneva Conference was, for the United States and the British Empire, a total tonnage limitation in the cruiser class of from 250,000 to 300,000 tons and for Japan from 150,000 to 180,000. For the destroyer class, for the United States and the British Empire, from 200,000 to 250,000 and for Japan from 120,000 to 150,000 tons. For the submarine class, for the United States and the British Empire, 60,000 to 90,000 tons and for Japan 36,000 to 54,000 tons. It was further stated by the American Delegation that, if any power represented felt justified in proposing still lower tonnage levels for auxiliary craft, the American Government would welcome such proposal.

The purpose of these proposals was that there might be no competition between the three powers in the building of naval armament, that their respective navies should be maintained at the lowest level compatible with national security and should not be of the size and character to warrant the suspicion of aggressive intent and finally that a wise economy dictates that further naval construction be kept to a minimum.

The Government of the United States remains willing to use its best efforts to obtain a basis of further naval limitation satisfactory to all the naval powers, including those not represented at the Three Power Conference in Geneva, and is willing to take into consideration in any conference the special needs of France, Italy or any other naval power for the particular class of vessels deemed by them most suitable for their defense. This could be accomplished by permitting any of the powers to vary the percentage of tonnage in classes within the total tonnage; a certain percentage to be agreed upon. If there was an increase in one class of vessels it should be deducted from the tonnage to be used in other classes. A proposal along these lines made by

France and discussed by the American and French representatives would be sympathetically considered by the United States. It expects on the part of others, however, similar consideration for its own needs. Unfortunately the Franco-British agreement, so far as its purport can be ascertained from the summary given, appears to fulfill none of the conditions which, to the American Government, seem vital. It leaves unlimited a very large class of effective fighting ships and this very fact would inevitably lead to a recrudescence of naval competition disastrous to national economy.

In a letter of July 31, 1928, from the British Embassy and the letter of August 3, 1928, from the French Embassy the following practically identical statement occurs:

'The final disarmament conference to fix the maximum tonnage applicable to all powers.'

The United States does not understand the precise meaning of this statement. Does it mean that the disarmament conference will fix a definite maximum tonnage applicable to all nations, or does it mean that the maximum tonnage will be fixed on some ratio basis having in view the principle of relative needs? The United States does not care to comment upon this in the absence of knowledge as to what the Franco-British agreement means."

Please repeat to London as No. 215 for delivery *mutatis mutandis* to the British Government. I should like to have you deliver this note on Friday morning, stating that the Department plans to give it to the press for publication in the morning papers of Saturday, September 29.

KELLOGG

500.A15Franco-British/69

The British Chargé (Chilton) to the Secretary of State

No. 439

His Britannic Majesty's Charge d'Affaires presents his compliments to the Secretary of State of the United States, and has the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to communicate to Mr. Kellogg herewith the texts of the notes exchanged between His Majesty's Government and the French Government which led up to the compromise, the text of which was contained in the note No. 358 which Mr. Chilton had the honour to address to Mr. Kellogg under date of July 31st last.

Mr. Campbell is instructed to inform Mr. Kellogg that no other notes have been exchanged between His Majesty's Government and the French Government on this subject, and to request that the texts communicated herewith may be treated as confidential and not for publication.

WASHINGTON, September 26, 1928.

[Enclosure 1]

*Text of a Note From the British Ambassador to the French Minister
for Foreign Affairs, Dated June 28, 1928*

His Majesty's Ambassador is instructed by His Majesty's Principal Secretary of State for Foreign Affairs to inform the Minister for Foreign Affairs that His Majesty's Government have had under consideration a suggestion made by the French naval representative in a conversation with Admiral Kelly at Geneva early this month.

2. The suggestion is that the only surface vessels subject to limitation should be those mounting a gun of greater calibre than 6". This would produce a classification for the preparatory commission on disarmament as follows:—

Capital Ships.

Aircraft carriers.

Surface vessels of 10,000 tons and under mounting a gun above 6".

Submarines.

3. His Majesty's Government presume that this suggestion would not have been made to Admiral Kelly by the French Naval representative unless he had reason to suppose it would meet with the approval of the Government of the Republic. In these circumstances Lord Crewe is directed to inform Monsieur Briand that His Majesty's Government in their earnest desire to meet the views of the Government of the Republic accept this suggestion and that they are prepared to instruct their representative to support it if put forward by the French representatives.

4. Lord Crewe is directed to add that the adoption of this suggestion, which His Majesty's Government recognize would be a concession to their views on naval classification, would enable them to meet the Government of the Republic by withdrawing their opposition to the French standpoint in regard to Army trained reserves.

[Enclosure 2—Translation]

*Text of a Note From the French Ministry for Foreign Affairs to the
British Embassy, Dated July 20, 1928*

In his note of June 28 last the Marquis of Crewe kindly communicated to M. Briand the bases on which his Government, solicitous of making possible between France and Great Britain an understanding designed to insure the success of the work of the Preparatory Commission for the Disarmament Conference, was disposed to consider the limitation of naval armaments. He added that if the Government of the Republic should share these views the British Government, on its part, would give up its opposition to the French position on the question of "trained reserves".

The Government of the Republic convinced, as is the British Government, that in the absence of an understanding between the two countries it would be vain to hope for the success of the labours of the Preparatory Commission and consequently impossible to achieve a general limitation of armaments, has examined in the most receptive spirit the proposal which the British Embassy has been good enough to transmit.

It would certainly have preferred that the British Government, taking into account the views already expressed officially or semi-officially by the United States and Japan, should have considered it possible to accept the compromise draft presented by the French Delegation in the month of March, 1927, and it remains convinced that, if, in spite of their expectations, difficulties should continue to exist, the study of this draft would eventually furnish ways of overcoming them.

Taking cognizance, however, of the declarations contained in the British note, realizing the attempt at conciliation, of which these declarations give evidence and desirous, on its part, of showing in this matter the same desire for an understanding, the French Government after careful examination has decided to agree with the principle of the proposals contained in the note of June 28.

Nevertheless, it appears to the French Government that, to be submitted effectively for the acceptance of the other interested naval Powers with a view to the reconvening of the Preparatory Commission and in order fully to safeguard the interests for which that Government is responsible, these proposals should be made more definite with respect to the manner of their execution.

It is with this in view that the Chief of the General Staff of the Navy recently questioned Rear-Admiral Kelly, temporarily in Paris, concerning the means which the British Admiralty considered employing in putting into practise the proposed method of limitation. Rear-Admiral Violette in particular asked whether the British Government, following a method already put forward by its representatives, envisaged, for the limitation of submarines, the fixing of a maximum tonnage equal for all the great naval Powers, a system which should eventually have the advantage of avoiding discussions frequently delicate regarding the determination of the needs and the relative strength of their navies.

He similarly asked if the same method could be applied to cruisers, for the limitation of which the note of June 28th provides, it being understood, moreover, that, within the maximum tonnage theoretically authorized, the Disarmament Conference should determine the limitation figures which in practise the High Contracting Parties would undertake not to exceed during the period of the Convention

to be concluded. Such a procedure would, in effect, have the advantage of avoiding discussions on the relative theoretical strength of certain navies, the political consequences of which might become delicate.

Finally, Rear-Admiral Violette asked whether, in accordance with a proposal often made by the British Admiralty, submarines could not be divided into two classes, coastal submarines, as the Japanese Delegation suggested during the Three Power Naval Conference, being exempt from all limitation because of their strictly defensive role.

The French Government sincerely hopes that the British Government will see no obstacles to making complete its proposals in this sense. The French Government itself could thus accept them in their entirety and that would render it possible to avoid at Geneva painful discussions which would be more likely to increase distrust between the Powers than to create the atmosphere of mutual confidence necessary to the general limitation of armaments.

Furthermore, it certainly has not escaped the British Government that the understanding so ardently desired by both can only produce its happy results if the American Government is willing to associate itself therewith. M. Briand would therefore be glad to know whether His Majesty's Government will consider it opportune to take the necessary steps in Washington in this respect. For its part, the Government of the Republic would not fail to point out the reasons for which, anxious to reach a conclusion, it has not thought that it should insist upon the adoption of the compromise proposal which it presented in 1927. It, moreover, entertains the hope that the concerted action of France and England will make it possible to obtain the adherence of the interested naval Powers.

In any event, moreover, and even if this hope should be frustrated, there would nevertheless remain for the two Governments the imperious duty of coming to an agreement either to insure in other ways the success of the work which is being done or to adopt a common policy which would permit them to meet the difficulties which a failure of this work would not fail to occasion.

[Enclosure 3]

Text of a Note From the British Embassy at Paris to the French Minister for Foreign Affairs, Dated July 28, 1928

His Majesty's Embassy is directed by His Majesty's Principal Secretary of State for Foreign Affairs to inform Minister for Foreign Affairs that His Majesty's Government highly appreciate the friendly and conciliatory attitude displayed by the Government of the Republic in the memorandum addressed to His Majesty's Embassy by the Min-

ister for Foreign Affairs on July 20th respecting the limitation of naval armaments.

His Majesty's Government, like the French Government, would have preferred to see their own proposal for compromise accepted in the terms in which they originally made it, and they cannot but observe that the supplementary proposals suggested in the French note make very considerable alterations in it. Nevertheless, His Majesty's Government, in their anxious desire to reach such an agreement with France and other Powers as will lead to the successful conclusion of the labours of the Preparatory Commission, and believing that the proposals now made by the French Government are of a character to achieve this result, are prepared to accept the supplementary proposals made in the French note, namely, that an equal maximum tonnage for submarines and cruisers should be fixed for the great naval Powers, and that submarines should be divided into two classes, the smaller class being exempt from all limitation.

It is, of course, well known to the French Government that His Majesty's Government are unable to consider this class of vessel as possessing a strictly defensive character, but, as above stated, they consent in deference to the views of other Powers not to insist further on their point of view.

His Majesty's Government are in full agreement with the French Government that the assent of the other great naval Powers is essential to success, and, as desired by the French Government, His Majesty's Government will communicate to the Governments of the United States, Italy and Japan, the compromise which has already received the approval of France and Great Britain, that is to say:—

“Limitations which the Disarmament Conference will have to determine will deal with four classes of warships:—

“(1) Capital ships, i. e., ships of over 10,000 tons or with guns of more than 8 inch calibre.

“(2) Aircraft carriers of over 10,000 tons.

“(3) Surface vessels of or below 10,000 tons armed with guns of more than 6 inch and up to 8 inch calibre.

“(4) Ocean-going submarines, i. e., over 600 tons.

“The Washington Treaty regulates limitations in classes (1) and (2) and the Disarmament Conference will only have to consider the method of extending these limitations to Powers non-signatory to this treaty.

“As regards classes (3) and (4), the final Disarmament Conference will fix a maximum tonnage applicable to all Powers which no Power will be allowed to exceed for the total of vessels in each of these respective categories during the period covered by the convention. Within this maximum limit each Power will at the final conference indicate for each of these categories the tonnage they propose to reach and which they undertake not to exceed during the period covered by the convention.”

500.A15Franco-British/72: Telegram

*The Secretary of State to the Chargé in France (Armour)*⁵⁰

WASHINGTON, *September 26, 1928—6 p. m.*

330. Since Department's telegram number 329, September 25, 3 p. m. giving text of note to French Government concerning the Franco-British naval agreement the Department has received from both governments the texts of the notes exchanged. This full knowledge of the agreement does not change the note telegraphed you, with the following exceptions:

In the second paragraph strike out the following words: "not knowing the full text of the agreement, finds it difficult to answer the French note, but". Also strike out the word "nevertheless". So that the paragraph would read "The Government of the United States is willing to submit certain suggestions as to the basis of naval limitation as summarized in the French note."

In the next to the last paragraph of the note strike out "So far as its purport can be ascertained from the summary given".

Also strike out the entire last paragraph beginning "In a letter of July 31".

KELLOGG

APPROVAL BY THE SECRETARY OF STATE OF HOUSE JOINT RESOLUTION FAVORING THE ABOLITION OF SUBMARINES BY ALL NATIONS

811.30/157

The Secretary of State to the Honorable Stephen G. Porter^{50a}

WASHINGTON, *January 28, 1928.*

MY DEAR CONGRESSMAN: I received your letter⁵¹ asking the Department's report or recommendations on H. J. Res. 139 expressing the opinion of Congress against the use of submarines, etc.⁵² There is no objection to the Resolution provided it expresses the opinion of Congress that submarines be abolished and their construction prohibited by all the nations of the world. Of course, it would be im-

⁵⁰ The same, *mutatis mutandis*, to the Ambassador in Great Britain as No. 218.

^{50a} Chairman of the Committee on Foreign Affairs of the House of Representatives.

⁵¹ Not printed.

⁵² 70th Congress, 1st Session, joint resolution introduced by Mr. Frothingham Jan. 9, 1928, and referred to the Committee on Foreign Affairs:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the opinion of the Congress of the United States that the use of submarines be prohibited and their construction discontinued in this and every other country.

That the Government of the United States continue to use efforts to bring about these results."

possible for one country to abolish submarines and leave any other country free to build and operate them. The United States would be willing to sign a treaty with all the powers of the world prohibiting the use of submarines entirely. I suggest, therefore, that the Resolution be amended to read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the opinion of the Congress of the United States that all nations of the world should unite in prohibiting the use of submarines and discontinuing the construction thereof in every country.

That the Government of the United States continue to use efforts to bring about these results.

Very sincerely yours,

FRANK B. KELLOGG

SPECIAL COMMISSION FOR THE PREPARATION OF A DRAFT CONVENTION ON THE PRIVATE MANUFACTURE OF ARMS AND AMMUNITION AND OF IMPLEMENTS OF WAR, SECOND AND THIRD SESSIONS⁵³

500.A16/36 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, July 17, 1928—noon.

[Received 3:19 p. m.]

72. Circular C. F. A. 15, dated July 15, relating to private manufacture just received.

"The Chairman of the Special Committee has the honor to inform the members of the Committee that its second session will open at Geneva on Monday, August 27, 1928, at 11 a. m. Provisional agenda: Drafting of a single text for draft convention."

WILSON

500.A16/43

The Secretary of State to the Minister in Switzerland (Wilson)

No. 276

WASHINGTON, August 9, 1928.

SIR: With reference to the Department's instruction No. 274 of August 3, 1928,⁵⁴ designating you to attend the second session of the Special Commission for the Preparation of a Draft Convention on the Private Manufacture of Arms and Ammunition and Implements of War, which is to meet at Geneva on August 27, 1928, there is transmitted herewith the text of a draft convention on this subject, prepared with the cooperation of the War and Navy Depart-

⁵³ For correspondence concerning the first session of the Special Commission, see *Foreign Relations*, 1927, vol. I, pp. 213 ff.

⁵⁴ Not printed.

ments, and intended to serve as a possible basis for an agreement acceptable to this Government.

It should be clearly understood that any draft convention adopted must provide for the same degree of publicity for state manufacture as for private manufacture, and that any convention which establishes a régime of supervision, control, or inspection will not be acceptable to the United States.

Inasmuch as this Government's position with regard to questions to be considered by the Commission is clearly set forth in its instruction No. 598 of February 28, 1927,⁵⁵ and may also be determined from a study of the enclosed draft convention, it is not considered necessary further to expound in any detail the attitude which you should take at the forthcoming meeting. While the Department has not had occasion to modify its views as contained in its instruction to your predecessor, the situation obtaining at the time of the first session of the Special Commission has undergone a considerable change, since all Governments represented now would appear to be in substantial agreement in so far as they are willing to discuss the application of the Convention to public as well as private manufacture and to limit the Convention to measures of publicity for such production. This agreement in principle on the part of the Italian and Japanese delegates, during an informal meeting on May 19, 1928, to publicity for government manufacture of arms, makes it probable that the Commission will successfully accomplish the purpose for which it is called, viz., the drawing up of a single text for a draft convention.

While the Department does not anticipate that any attempt will be made to resume the controversy regarding publicity of government manufacture, you should, in the event of this contingency, as already indicated in the second paragraph of this instruction, reassert with due emphasis this Government's refusal under any circumstances to consider entering into an agreement which does not deal with government manufacture on the same footing as private manufacture. You should similarly oppose the inclusion of any provisions looking toward the supervision and control of arms manufacture as distinct from publicity. The reasons for this attitude are plainly set forth on pages 11 and 14 of the Department's instruction of February 28, 1927, and the annexes mentioned therein.

As regards the draft convention transmitted herewith, it will be noted that its provisions follow as closely as possible the analogous provisions of the Arms Traffic Convention signed on June 17, 1925.⁵⁶

⁵⁵ *Foreign Relations*, 1927, vol. I, p. 216.

⁵⁶ *Ibid.*, 1925, vol. I, p. 61.

The individual articles are self-explanatory and need no further elucidation.

This draft is not intended for immediate presentation at the outset of the deliberations, unless you find that the situation makes such procedure expedient. It is believed that it would probably be wiser first to observe the general trend of the discussions and to determine whether there is any possibility that the American draft might be adopted *in toto*. Failing this, you should, as occasion arises, submit individual articles of the draft with a view to getting as many provisions thereof accepted as circumstances will permit. The Department leaves it entirely to your discretion to determine the most suitable time and method of introducing the proposals embodied in its draft, but desires that you consult it prior to agreeing to any modifications of substance or to any final draft which does not substantially carry out this Government's proposals.

Due to the fact that the draft convention to be adopted will be a companion convention to the Arms Traffic Convention, and for other reasons, it is considered highly desirable that the categories appearing in Article I of the Arms Traffic Convention be embodied without any change in the draft convention to be adopted by the Special Commission.

You should, of course, not join in any report which the commission may make to the Assembly or Council of the League of Nations, but should state instead that you will make your report to your Government.

I am [etc.]

FRANK B. KELLOGG

[Enclosure]

Draft Convention for the Regulation of and Publicity in Regard to the Manufacture of Arms and Ammunition and of Implements of War

Whereas a Convention concerning the Supervision of the International Trade in Arms and Ammunition and in Implements of War was signed at Geneva on June 17, 1925, and;

Whereas it is desirable that the international aspect of the manufacture of arms and ammunition and implements of war should receive early consideration;

The different governments have decided to conclude a Convention and have accordingly appointed as their Plenipotentiaries:

.....

Who, having communicated their full powers, found in good and due form, have agreed as follows:

ARTICLE 1

For the purpose of the present Convention, five Categories of arms, ammunition, and implements of war are established as follows:

CATEGORY I. ARMS, AMMUNITION AND IMPLEMENTS OF WAR EXCLUSIVELY
DESIGNED AND INTENDED FOR LAND, SEA OR AERIAL WARFARE

A.—Arms, Ammunition and Implements exclusively designed and intended for land, sea or aerial warfare which are or shall be comprised in the armament of the armed forces of any State, or which, if they have been but are no longer comprised in such armament, are capable of military to the exclusion of any other use, except such arms, ammunition and implements which, though included in the above definition, are covered by other Categories.

Such arms, ammunition and implements are comprised in the following twelve headings:

1. Rifles, muskets, carbines.
2. (a) Machine-guns, automatic rifles and machine pistols of all calibres;
(b) Mountings for machine-guns;
(c) Interrupter gears.
3. Projectiles and ammunition for the arms enumerated in Nos. 1 and 2 above.
4. Gun-sighting apparatus including aerial gun-sights and bomb-sights, and fire-control apparatus.
5. (a) Cannon, long or short, and howitzers, of a calibre less than 5.9 inches (15 cm.);
(b) Cannon, long or short, and howitzers, of a calibre of 5.9 inches (15 cm.) or above;
(c) Mortars of all kinds;
(d) Gun carriages, mountings, recuperators, accessories for mountings.
6. Projectiles and ammunition for the arms enumerated in No. 5 above.
7. Apparatus for the discharge of bombs, torpedoes, depth charges and other kinds of projectiles.
8. (a) Grenades;
(b) Bombs;
(c) Land mines, submarine mines, fixed or floating, depth charges;
(d) Torpedoes.
9. Appliances for use with the above arms and apparatus.
10. Bayonets.
11. Tanks and armoured cars.
12. Arms and ammunition not specified in the above enumeration.

B.—Component parts, completely finished, of the articles covered by A above, if capable of being utilized only in the assembly or repair of the said articles, or as spare parts.

CATEGORY II. ARMS AND AMMUNITION CAPABLE OF USE BOTH FOR MILITARY
AND OTHER PURPOSES

A—1. Pistols and revolvers, automatic or self-loading, and developments of the same, designed for single-handed use or fired from the shoulder, of a calibre greater than 6.5 mm. and length of barrel greater than 10 cm.

2. Fire-arms designed, intended or adapted for non-military purposes, such as sport or personal defense, that will fire cartridges that can be fired from fire-arms in Category 1; other rifled fire-arms firing from the shoulder, of a calibre of 6 mm. or above, not included in Category I, with the exception of rifled fire-arms with a "break-down" action.

3. Ammunition for the arms enumerated in the above two headings, with the exception of ammunition covered by Category I.

4. Swords and lances.

B.—Component parts, completely finished, of the articles covered by A above, if capable of being utilized only in the assembly or repair of the said articles, or as spare parts.

CATEGORY III. VESSELS OF WAR AND THEIR ARMAMENT

1. Vessels of war of all kinds.

2. Arms, ammunition and implements of war mounted on board vessels of war and forming part of their normal armament.

CATEGORY IV

1. Aircraft, assembled or dismantled.

2. Aircraft engines.

CATEGORY V

1. Gunpowder and explosives, except common black gunpowder.

2. Arms and ammunition other than those covered by Categories I and II, such as pistols and revolvers of all models, rifled weapons with a "break-down" action, other rifled fire-arms of a calibre of less than 6 mm. designed for firing from the shoulder, smooth-bore shot-guns, guns with more than one barrel of which at least one barrel is smooth-bore, fire-arms firing rimfire ammunition, muzzle-loading fire-arms.

ARTICLE 2

The provisions of the present Convention apply with equal force to all production of the articles covered by Categories I to V of Article 1, within the territory under the jurisdiction, control or supervision of the High Contracting Parties, irrespective of whether

the means of production are owned, controlled, or managed by private individuals or corporations, or whether such means of production are owned, controlled, or managed by the State.

ARTICLE 3

The High Contracting Parties undertake to publish within six months after the close of each calendar half-year a statistical return for that half-year of all the articles covered by Categories I and II, which have been manufactured within the territory under their jurisdiction, control, or supervision. This return shall be drawn up in accordance with the specimen form contained in Annex I⁶⁷ to the present Convention and shall show under each heading of the said Categories in Article 1, the weight, the number, and the value of the articles so manufactured. This return in the form shown in Annex I shall not include the items covered by Articles 4 and 5 which are published in the form shown in Annexes II and III to this Convention. The first statistical return to be published by each of the High Contracting Parties shall be for the half-year, beginning on the first day of January or of July, subsequent to the date on which the present Convention comes into force with regard to the High Contracting Party concerned.

ARTICLE 4

The High Contracting Parties in all cases covered by Category III undertake to publish within six months after the close of each calendar half-year a statistical return for that half-year, giving the information detailed below for each vessel of war constructed, under construction, or to be constructed within their territory or jurisdiction, whether on their own behalf or on behalf of the government of another State;

a. The date of the signing of the contract or authorization and appropriation for the construction of the vessel, the name of the government for which the vessel is ordered, together with the following data:

Standard displacement in tons and metric tons; the principal dimensions, namely, length at water line, extreme beam at or below water line, and main draft at standard displacement.

b. The date of laying the keel, the name of the government for which the vessel is being constructed, together with the following data:

Standard displacement in tons and metric tons; the principal dimensions, namely, length at water line, extreme beam at or below water line, and main draft at standard displacement.

⁶⁷There are no annexes attached to the file copy of this draft.

c. Date of delivery, or date of completion, the name of the government to which the vessel is delivered, together with the following data with respect to the vessel at that date:

Standard displacement in tons and metric tons; the principal dimensions, namely, length at water line, extreme beam at or below water line and main draft at standard displacement.

As well as the following information regarding the armament installed on board the vessel at the date of delivery and forming part of the vessel's normal armament:

Number and calibre of guns;
 Number and calibre of torpedo tubes;
 Number of bomb throwers; number and calibre of machine guns;
 number and calibre of antiaircraft guns, quantity and kind of other armament.

By the standard displacement in the present Article it is to be understood the displacement of the vessel complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores, and implements of every description that are intended to be cared for⁶⁸ but without fuel or reserve feed water on board.

This return shall be drawn up in accordance with the specimen form contained in Annex II of the present Convention.

ARTICLE 5

The High Contracting Parties in all cases covered by Category IV undertake to publish within six months after the close of each calendar half-year a return for that half-year, giving the information detailed below for each aircraft and each aircraft engine manufactured under military specifications within their territory or jurisdiction, whether on their own behalf or on behalf of the government of another State:

a. Primary purpose for which manufactured whether military or commercial.

b. Type.

c. Horse-power.

d. Gross weight fully-manned, engined, armed and equipped ready for the performance of its mission, including normal designed fuel supply. (For lighter-than-air craft volume to be substituted for gross weight.)

e. Armament—number and calibre of guns, with normal ammunition, supply and bomb capacity.

⁶⁸ On August 30 the Ambassador was informed that the phrase "cared for" should read "carried in war."

By the term "manufactured under military specifications" is meant both materiel manufactured for purely military purposes and materiel manufactured for commercial purposes, but on specifications designed to make it capable of military uses.

This return shall be drawn up in accordance with the specimen form contained in Annex III.

ARTICLE 6

The Articles covered by Category V shall be subject to such publicity as may be prescribed by the national legislation of each High Contracting Party.

ARTICLE 7

The High Contracting Parties undertake to publish semi-annually, the text of the provisions of all statutes, orders, or regulations in force within their territories dealing with the manufacture, storage, or distribution of the articles covered by Categories I to V of Article 1.

ARTICLE 8

The provisions of the present Convention are supplemented by those of Annexes I to III, inclusive, which have the same value and which enter into force at the same time as the Convention itself.

ARTICLE 9

In time of war the application of the present Convention shall be suspended in so far as its application to a High Contracting Party who is a belligerent is concerned.

ARTICLE 10

The High Contracting Parties will use their best endeavors to secure the accession to the present Convention of other states. Each accession will be notified to the Government of the French Republic and by the latter to all signatories or acceding states.

The instruments of accession shall remain deposited in the archives of the Government of the French Republic.

ARTICLE 11

The present Convention may be denounced by any Party thereto after the expiration of four years from the time when it came into force in respect to that Party. Denunciation shall be effected by notification in writing, addressed to the Government of the French Republic, which shall forthwith transmit copies of such notification

to the other Parties informing them of the date on which it was received.

A denunciation shall take effect one year after the date of the receipt of the notification thereof by the Government of the French Republic and shall operate only in respect to the notifying state.

Should the Convention be denounced by one of the Powers whose ratification is a condition of its entrance into force, any other High Contracting Party may also, within a period of one year from the date of such denunciation, denounce the Convention without waiting for the expiration of the period of four years mentioned above, and may require that its denunciation shall take effect at the same time as the first mentioned denunciation.

ARTICLE 12

Any state signing or acceding to the present Convention may declare at the moment of its signature, ratification or accession, that its acceptance of the present Convention does not apply to any or all of the overseas territories under its sovereignty, authority or jurisdiction, and may accede subsequently in accordance with the provisions of Article 10 on behalf of any territory so excluded. Denunciation may also be effected separately in respect of any such territory, and the provisions of Article 11 shall apply to any such denunciation.

ARTICLE 13

The High Contracting Parties agree that, at the conclusion of a period of three years from the coming into force of the present Convention, under the terms of Article 15, this Convention shall be subject to revision upon the request of one-third of the said High Contracting Parties.

ARTICLE 14

The present Convention, of which the English and French texts are both authentic, is subject to ratification, and shall bear today's date.

Each Power shall address its ratification to the Government of the French Republic, which will at once notify the deposit of such ratification to each of the other signatory Powers.

The instruments of ratification will remain deposited in the archives of the Government of the French Republic.

ARTICLE 15

A first *proces-verbal* of the deposit of the ratification will be drawn up by the Government of the French Republic as soon as

the present Convention shall have been ratified by not less than producing States.

The present Convention shall come into force four months after the date of notification by the Government of the French Republic to all signatory Powers.

Subsequently the present Convention will come into force with respect to each High Contracting Party four months after the date on which its ratification or accession shall have been notified by the Government of the French Republic to all signatory or acceding States.

In witness thereof, the above mentioned Plenipotentiaries have signed the present Convention.

Done at Geneva this day of 19 . . .

500.A16/51 : Telegram

*The American Representative on the Special Commission (Wilson)
to the Secretary of State*

GENEVA, August 27, 1928—noon.

[Received August 27—9:12 a. m.]

1. Article V of your draft of treaty discussing category III appears to limit "civil aircraft" to those "manufactured under military specifications." Examination of Traffic in Arms Convention discloses no such limitation and I would appreciate analysis of Department's views in this matter. I have requested Yount⁵⁹ to proceed from Paris to advise me on this and other questions.

I assume that full publicity concerning aircraft is made by our Government departments. If this is so could we not safely promise full publicity on "civil aviation" without limitation?

Address Ammission.

WILSON

500.A16/51 : Telegram

*The Acting Secretary of State to the American Representative on the
Special Commission (Wilson)*

[Paraphrase]

WASHINGTON, August 28, 1928—1 p. m.

1. Your No. 1, August 27, noon. In drawing up draft convention enclosed with Department's instruction to you of August 9, the analogous provisions of arms traffic convention were followed wherever

⁵⁹ Major Burton K. Yount, assistant military attaché for air, American Embassy, Paris.

possible for two reasons: (1) To forestall inclusion and discussion of new classifications of material; (2) to simplify the execution of the two conventions.

Owing to circumstances which arose during the negotiations over the arms traffic convention there was no distinction made in providing for the publication of import and export statistics. The Government of the United States requires these statistics in any event, and the feeling was, therefore, that the provision of the proposed convention imposed no new requirement on private manufacturers.

The Government of the United States does not wish, however, to require publicity for all airplanes and engines which are privately manufactured in this country in way which would become necessary were the provision in the convention now under negotiation to be extended as you suggest.

Department also feels that the inclusion of all aircraft would be step in direction of admitting that "potentials of war" should be open to restriction or to control. As you are aware, the Government of the United States is firmly opposed to any such admission as a basis for either regulation or limitation.

Department realizes that provision including all aircraft and engines in the arms traffic convention is inconsistent with title of this proposed convention which includes only arms, ammunition, and implements of war. For this reason the Department is all the more anxious that a similar inconsistency should not be embodied in the convention now under negotiation. It would seem quite as inconsistent with purpose of the convention as expressed in its title to include all aircraft and engines as it would if there were included under Category I, heading 11, all commercial and private automobiles along with armored tanks and cars.

Accordingly, the Department instructs you to maintain position that only aircraft and engines manufactured under military specifications should be listed in convention. If the other Governments are not prepared to accept the inclusion in the provision of all those manufactured under military specifications, you should take the position that only aircraft and engines manufactured for the armed forces of the respective countries should be included.

Department is fully aware of the difficulty of your position on this point, but it hopes that you will be able, nevertheless, to bring the other delegates to share our views on undesirability of attempting to include material which is not designed expressly for war purposes.

CASTLE

500.A16/65

*Statement by the American Representative (Wilson) in the Fourth Meeting of the Second Session of the Special Commission, August 29, 1928*⁶⁰

Yesterday the discussion turned on the question of aviation, and certain reserves were made, which make it essential, in our opinion, to offer a statement.

The American Government has consistently urged the fullest publicity for all production of war material of both private and public manufacture.

In submitting a reserve to Article 1, category 4, which I am about to offer, I desire to state that full information concerning the production in the United States of America of aircraft and aircraft engines for civil and commercial purposes is available to the public in Government publications.

From this fact it is evident that no question can arise of the good faith of my Government in this matter; nor can anyone surmise that we suggest the possibility of limitation of Category 4 for the purposes of secrecy. Nevertheless, in the Preparatory Commission for Disarmament, and in various subcommittees growing out of that Commission, the American representatives have never failed to make clear our point of view that limitation of civil and commercial aircraft is unacceptable.

Lest any doubt in the future should arise as to our attitude on this point, we think it advisable to insert a note explaining that in this Draft Convention we do not change our attitude as to our views against the incorporation of all aircraft and aircraft motors as implements of war, as they are described under the heading of Article 1.⁶¹

500.A16/65

*Preliminary Draft Convention With Regard to the Supervision of the Private Manufacture and Publicity of the Manufacture of Arms and Ammunition and of Implements of War Submitted to the Council by the Special Commission*⁶²

PREAMBLE

The following countries

Whereas the signatories of the Final Act of the Convention concerning the Supervision of the International Trade in Arms and Ammuni-

⁶⁰ Extract from minutes transmitted to the Department by the American Representative in report No. 3, Sept. 3; received Sept. 14.

⁶¹ For text of the reservation, see remark 3, under art. 1, of the preliminary draft convention, *infra*.

⁶² Reprinted from League of Nations, *Special Commission for the Preparation of a Draft Convention on the Private Manufacture of Arms, etc.: Report . . . to the Council on the Work of Its Second Session, held at Geneva, August 27th to 30th, 1928* (C.447.1928.IX—C.F.A.20-1).

tion and in Implements of War, signed at Geneva on June 17th, 1925, have unanimously declared that "the Convention of to-day's date must be considered as an important step towards a general system of international agreements regarding arms and ammunition and implements of war, and that it is desirable that the international aspect of the manufacture of such arms, ammunition, and implements of war should receive early consideration by the different Governments";

Whereas the manufacture of arms and ammunition and implements of war should be subjected to a general and effective system of governmental supervision and publicity;

Whereas the manufacture of arms, ammunition or implements the use of which in war is prohibited by international law ought not to be permitted for such purpose;

Have decided to conclude a Convention and have accordingly appointed as their plenipotentiaries:

(Here follow the names of the plenipotentiaries.)

Who, having communicated their full powers found in good and due form, have agreed as follows:

CATEGORIES

Article 1

[Same as Chapter I of the Convention for the Supervision of the International Trade in Arms (document A.16.1925.IX, pages 5 and 6).]⁶³

Remarks

1. The Belgian delegation has made a reservation with regard to the advisability of a further study being made of these categories.

2. The German delegation declares itself against the inclusion of Category IV, in so far as civil aviation is concerned, in this Convention.

3. The delegation of the United States of America reserves the right to propose, for incorporation in the final text of the Convention, a statement limiting the material of Category IV of Article 1 to aircraft and aircraft engines manufactured under military specifications within their territory or jurisdiction on their own behalf or on behalf of the Government of another State.

By the term "manufactured under military specifications" it means both material manufactured for purely military purposes and material manufactured for commercial purposes, but on specifications designed to make it capable of military use.

The delegation of the Netherlands associates itself with this reservation.

⁶³ Brackets in the original.

SUPERVISION AND PUBLICITY

Article 2

For the purposes of the present Convention, private manufacture shall be considered to mean manufacture of items defined in Article 1 taking place in establishments of which the State is not the sole proprietor, and which are mainly or to a large extent engaged in the manufacture of the said articles, excluding manufacture on the order and behalf of the State.

Article 3

The High Contracting Parties undertake not to permit, in the territory under their jurisdiction, the private manufacture as defined in Article 2 of the articles included in Categories I, II, III and IV, or of the arms, ammunition and implements the use of which in war is prohibited by international law, unless the manufacturers thereof are licensed by the Government to manufacture the articles referred to in this article.

This licence shall be valid for a period to be determined individually by each High Contracting Party, and shall be renewable for a further period at the discretion of the Government.

As regards arms, ammunition and implements the use of which in war is prohibited by international law, authorisation shall only be given in cases where it is established beyond doubt that such articles are to be manufactured for purposes other than war.

Remarks

1. Certain delegations declared themselves against the inclusion of Category IV in this article.

2. The British delegation made a reservation with regard to clauses concerning arms, ammunition and implements the use of which in war is prohibited by international law.

3. The delegation of the United States of America recalled its declaration of principle made previously to the effect that its Government is powerless to prescribe or enforce a prohibition or a system of licences upon private manufacture which takes place under the jurisdiction of the States which form the Union of the Government of the United States.

Article 4

The High Contracting Parties undertake to transmit to the Secretary-General of the League of Nations, or to publish within two months after the close of each quarter beginning on the first day of January, April, July and October a list of the licences granted during that quarter, together with:

(a) A description of the war material for which the licence is granted;

(b) The name and address of the registered or head office of the licensees and the period for which the licence has been granted.

(c) The names of all the enterprises with which the holder has concluded agreements or associations of any kind whatever, with a view to the production of the articles of war material for which the licence has been granted.

Remark

Certain delegations are unable to accept the clause under (c) above.

Article 5

The High Contracting Parties further undertake to transmit to the Secretary-General of the League of Nations, or to publish annually, a return showing the total production, in value, of the private manufactures licensed in accordance with the provisions of Article 3, in respect of each of the twelve headings of Category I (A and B), of the four headings of Category II (A and B), of the two headings of Category IV, set out in Article 1 of the present Convention.

Each of the High Contracting Parties similarly undertakes to forward to the Secretary-General of the League of Nations, or to publish annually, a return showing the total production, in terms of value and by categories, of the material manufactured for it either in establishments of which the State is the sole proprietor, or in any other establishment.

The High Contracting Parties undertake to transmit to the Secretary-General of the League of Nations, or to publish, the text of the provisions of all statutes, orders or regulations in force within their territory dealing with articles covered by Categories I, II and IV. All provisions enacted for the purpose of carrying out the present Convention and all amendments and additions to such statutes, orders, regulations and provisions shall also be published, or transmitted to the Secretary-General of the League of Nations.

Remarks

1. Certain delegations declared themselves against the inclusion of Categories IB, IIB and IV in this article.

2. Certain delegations made the reservation that, in order to be accurate, "the particulars published in regard to private manufacture should be set forth in terms of weight, number and value".

Other delegations were of opinion that, in order to satisfy the requirements of the Assembly's resolution of September 24th, 1927, publicity in terms of weight, number and value should be prescribed for State as well as for private manufacture. Certain of the latter delegations could not accept any treaty which does not deal with State manufacture on the same footing as private manufacture.

3. Certain delegations consider that the conditions of supervision and publicity in regard to State manufacture must be brought into line with the general conditions which will be laid down by the Convention for the limitation of armaments.

Certain delegations, while accepting that remark, consider that it must not be interpreted in such a way as to subordinate the convening of a Conference on Private Manufacture to that of the General Conference on the Reduction and Limitation of Armaments.

4. Certain delegations are of opinion that the return provided for in the second paragraph should contain information not only for categories but also in respect of headings, as provided for in the first paragraph.

Article 6

The High Contracting Parties, in all cases covered by Category III, undertake to publish within two months after the close of each half-year a return for that half-year, giving the information detailed below for each vessel of war constructed, in the course of construction, or to be constructed (i. e., for which the contract has been signed), within their territorial jurisdiction:

(a) The date of the signing of the contract for the construction of the vessel, and the following data:

Standard displacement in tons and metric tons; the principal dimensions, namely, length at water-line, extreme beam at or below water-line and mean draft at standard displacement;

(b) The date of laying the keel and the following data:

Standard displacement in tons and metric tons; the principal dimensions, namely, length at water-line, extreme beam at or below water-line, mean draft at standard displacement;

(c) Date of delivery, or date of completion, together with the following data with respect to the vessel at that date:

Standard displacement in tons and metric tons; the principal dimensions, namely, length at water-line, extreme beam at or below water-line and main draft at standard displacement.

By standard displacement in the present article is to be understood the displacement of the vessel complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

Remarks

A proposal was made to the effect of inserting, at the end of paragraph (c) above, the following clause:

“As well as the following information regarding the armament installed on board the vessel at the date of delivery and forming part of the vessel’s normal armament:

“Number and calibre of guns; number and calibre of torpedo tubes; number of bomb throwers; number of machine-guns.”

However, certain delegations declared that they had no instructions from their Governments enabling them to take a decision on this point.

Article 7

The articles covered by Category V shall only be subject to such publicity as may be prescribed by the national legislation.

GENERAL PROVISIONS

Article 8

In time of war, the application of the present Convention shall be suspended until the restoration of peace as regards belligerents, and also as regards non-belligerents threatened by the war and whose supply of arms would become difficult as a result of hostilities.

Neutral High Contracting Parties who avail themselves of this right shall duly notify the other High Contracting Parties.

Remarks

Certain delegations consider that the following words should be omitted: “and also as regards non-belligerents threatened by the war and whose supply of arms would become difficult as a result of hostilities”. The second paragraph of the article would thus become superfluous.

Other delegations expressed the opinion that only the words “and whose supply of arms would become difficult as a result of hostilities” should be omitted.

Article 9

The present Convention shall not be deemed to affect any rights and obligations which may arise out of the provisions of the Covenant of the League of Nations, or of the Treaties of Peace signed in 1919 and 1920 at Versailles, Neuilly, St. Germain and Trianon, or of the Treaty limiting Naval Armaments signed at Washington on February 6th, 1922, or of any other treaty, convention, agreement or engagement concerning the manufacture of arms and ammunition and of implements of war.

Article 10

The High Contracting Parties will use their best endeavours to secure the accession to the present Convention of other States.

Each accession will be notified to the Secretary-General of the League of Nations, and by the latter to all the signatory or acceding States.

The instruments of accession shall remain deposited in the archives of the Secretariat of the League of Nations.

Article 11

The present Convention may be denounced by any High Contracting Party thereto after the expiration of four years from the date when it came into force in respect of that Party. Denunciation shall be effected by notification in writing addressed to the Secretary-General of the League of Nations, who will forthwith transmit copies of such notification to the other Contracting Parties, informing them of the date on which it was received.

A denunciation shall take effect one year after the date of the receipt of the notification thereof by the Secretary-General of the League of Nations, and shall operate only in respect of the notifying States.

Should the Convention be denounced by one of the Powers whose ratification is a condition of its entry into force, any other High Contracting Party may also, within a period of one year from the date of such denunciation, denounce the Convention without waiting for the expiration of the period of four years mentioned above, and may require that its denunciation shall take effect at the same date as the first-mentioned denunciation.

Article 12

Any State signing or acceding to the present Convention may declare, at the moment of its signature, ratification or accession, that its acceptance of the present Convention does not apply to any or all of the overseas territories under its sovereignty, authority or jurisdiction, and may accede subsequently in accordance with the provisions of Article 10 on behalf of any territory so excluded. Denunciation may also be effected separately in respect of any such territory, and the provisions of Article 11 shall apply to any such denunciation.

Remarks

The Netherlands delegation proposed that this article should be omitted.

Article 13

The High Contracting Parties agree that, at the conclusion of a period of three years from the coming into force of the present Convention under the terms of Article 15, this Convention shall be subject to revision upon the request of one-third of the said High Contracting Parties, which request shall be addressed to the Secretary-General of the League of Nations.

Article 14

The present Convention, of which the French and English texts are both authentic, is subject to ratification. It shall bear to-day's date.

Each Power shall address its ratification to the Secretary-General of the League of Nations, who will at once notify the deposit of such ratification to each of the other signatory Powers.

The instruments of ratification will remain in the archives of the Secretariat of the League of Nations.

Article 15

A first *procès-verbal* of the deposit of ratifications shall be drawn up by the Secretary-General of the League of Nations as soon as the present Convention shall have been ratified by the following Powers:

(Here follows the list of the principal producing Powers, to be drawn up by the Conference.)

The Convention shall come into force four months after the date of the notification of this *procès-verbal* by the Secretary-General of the League of Nations to all signatory Powers.

Subsequently, the Convention will come into force in respect of each High Contracting Party four months after the date on which its ratification or accession shall have been notified by the Secretary-General of the League of Nations to all signatory or acceding States.

Remarks

The delegation of Salvador recommends that the text of this article should correspond to that of Article 41 of the Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War of June 17th, 1925, to the effect that the Convention should come into force after ratification by fourteen Powers.

Article 16

The High Contracting Parties agree to accept reservations which may be made by Estonia, Finland, Latvia, Poland and Roumania at the moment of their signature of the present Convention, and which shall suspend, until the accession of Russia to the present Convention under the same conditions as the said Powers, the application, in respect of those States, of Articles of the present Convention

500.A16/69

The Minister in Switzerland (Wilson) to the Secretary of State

No. 584

BERNE, September 10, 1928.

L. of N. No. 1201

[Received October 1.]

SIR: I have the honor to report that the Special Commission for the preparation of a draft convention on the private manufacture of arms and ammunition and of implements of war held sessions from August 27 to August 30, inclusive. Several copies of the provisional minutes of these meetings,⁶⁴ as well as of the report of the Special Commission to the Council (No. C. F. A. 20 (1) have already been sent to the Department.⁶⁵

I attended this conference with every intention of urging the acceptance of the Department's draft, enclosed with instruction No. 276, August 9, 1928, to the fullest possible extent. The debates of the very first session, however, made it clear that in spite of the optimistic attitude in which the Commission had met, the widest divergencies of opinion as to the degree of publicity to which public manufacture should be subjected were still existing in the minds of the delegates. Furthermore, every delegation, as far as I could see, with the exception of the delegation of the United States, desired the incorporation of some form of licensing system in the Convention. Since it was evident that this meeting would be in the main a mere restatement of views, it seemed wise not to submit the Department's draft, but to save it for some future occasion when there might be more hope of obtaining its adoption by the delegates.

Since the sessions were held in rapid succession there was no opportunity to consult the Department on tactics and I therefore determined to advocate the policies embodied in the Department's draft and, where essential, to submit reservations showing the views therein expressed. In regard to the form of paragraph 6 (relating to category 3 concerning naval production), I was able to gain a large measure of assent from the delegates to the form of article suggested in the Department's draft of Article 4.

Preliminary study led me to send my telegram No. 1, of August 27, 12 noon, and to request Major Yount to proceed from Paris. We considered the matter of civil and commercial aviation with the utmost care and reached the conclusion that it was advisable to submit a reservation or explanation of our attitude to be incorporated in the text of Article 1. In the minutes of the fourth meeting

⁶⁴ Of these minutes, only the extract containing the American Representative's statement, August 29, is printed.

⁶⁵ The report consisted of the preliminary draft convention printed *supra*, with a covering statement, the substance of which is quoted near the end of this document, the paragraph beginning "As the starting-point of its work".

(C. F. A./P. V. 4) the Department will find a statement which I made in explanation of our attitude in submitting this reservation.⁶⁶ As I rose to present this, the Department's telegram No. 1, of August 28, 1 p. m., was handed to me, and I was happily able to assure myself that the action which I had planned was in harmony with the Department's views on this subject.

I shall take up the preliminary draft article by article.

Preamble: I stated that the use of the phrase "governmental supervision" in paragraph 2 of the preamble, as amended, might cause us some embarrassment in view of our known attitude as to the inacceptability for us of any form of licensing. I added, however, that I did not insist strongly on this at the present time since this was a preliminary agreement only and our interests were, I believed, covered by our general reservation.

Article 1: I have already explained the attitude taken by the delegation in a preceding paragraph.

Articles 2, 3, and 4, which deal in general with the licensing system, was a subject of extensive debate in which I took little part, save to insert remark No. 3 under Article 3 published in the Report. My observations in this connection will be found on pages 12 and 13 of the minutes of the first meeting (C. F. A./P. V. 1).⁶⁷

Article 5: The debate began on this article and it was on this article that the most divergent views were expressed. The Department will find my remarks on this article on page 23 of the minutes of the first meeting and on pages 17 and 18 of the minutes of the third meeting.⁶⁷ I believe that the Department's point of view was adequately covered, although in view of the impossibility of reaching an accord and the thoroughness with which the subject had been analysed by the American delegations in preceding conferences, I made my declarations as terse as possible.

Article 6: Both in my telegrams and in the paragraph in the first part of this report I have explained the action taken by the American delegation in reference to this article. The Commission was entirely willing to have the terms of this article harmonize with the terms of Article 7 of the Arms Traffic Convention, but certain delegations, notably the Japanese, were unwilling to extend the type of information which must be given regarding battleships. The British delegation, while offering no objections to the extension of the type of information, was without instructions on the subject and consequently unable to acquiesce. It was therefore found essential to insert the remarks which follow Article 6 rather than include this additional information in the body of Article 6.

⁶⁶ Statement, *ante*, p. 303.

⁶⁷ Not printed.

Article 7: No remarks.

Article 8: In view of the terms in which Article 9 of your draft is drawn, I joined those delegations who considered that reference to non-belligerents threatened by war should be eliminated from the body of Article 8.

Article 9: No remarks.

Articles 10, 11, 12, 13, and 14: The French delegation informed Chairman Bernstorff and the Secretariat privately that they did not desire that the French Government should be named as the depository for ratifications and as the means of notification for this treaty and hoped that it would be possible to write this treaty in the terms in which the other instruments done at Geneva had been drawn, namely, to use the Secretariat of the League of Nations in place of the French Government. In view of the fact that the Department had authorized my signature to the Convention for the abolition of import and export prohibitions and restrictions,⁶⁸ in which the Secretariat General is indicated as the place of deposit, and in view of the unwillingness of the French Government to accept this responsibility, I raised no objection to this procedure.

Article 15: The delegation of Salvador having recommended that the Convention should come into force after ratification by fourteen powers, I took the position that in the present stage of the Convention it was unwise to endeavor to settle this point. The final conference of plenipotentiaries is certain, in any case, to reopen discussion on this question and with the realization that no good purpose could be accomplished by discussion in advance, I urged that full discussion of this subject should be postponed until that final conference.

In transmitting the report to the Council, the *Rapporteur* recommended, and the Committee accepted, the following phraseology:

"As the starting-point of its work, the Commission took the draft convention prepared at its first session in March and April, 1927. After attempting to reconcile the different points of view, it can do no more than place on record the continued existence of fundamental divergencies, and the impossibility of laying before the Council the single text which the Assembly desired. Inasmuch as, in the draft which the Commission is submitting as the outcome of its labors, the divergent opinions are set down at the close of each article, the Commission does not consider it necessary to analyse in this report the various points of view which found expression during the debates. It is of the opinion that this document contains all the information required for an appreciation of the stage at which its work has now arrived."

This phraseology, I believe, is an adequate summary of the measure of success achieved by this session. It might be added, however, that

⁶⁸ *Post*, p. 336.

whereas in previous meetings certain governments had entirely excluded the idea of publicity for state manufacture, at the present time these same governments are willing to accept a very limited measure of publicity for state manufacture. To this extent, it may be considered that there has been some measure of *rapprochement*.

In the penultimate meeting the *Rapporteur* asked for the views of the Commission regarding the desirability of convening an international conference, whereupon the Chairman stated: "From our discussions it appears impossible to suggest a date or even to consider the convening of an international Conference. The best course would be to submit the results of our work to the Council, leaving it to take a decision." There was no objection to this statement, and indeed it clearly expressed the views of all the delegates who had listened to the discussions.

I have [etc.]

HUGH R. WILSON

500.A16/70: Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, October 2, 1928—3 p. m.

[Received October 2—1:45 p. m.]

92. Next session of private manufacture conference called for December 5th. If I am to represent Department again it would be of great help in preparing myself to receive as soon as possible detailed comment from the Department on stand taken by delegation during the last session (see despatch No. 584, September 10).

WILSON

500.A16/70: Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, October 4, 1928—7 p. m.

90. Your 92, October 2, 3 p. m. Department assumes that decision to call meeting on December 5 is based on last paragraph of resolution adopted by Third Committee as quoted on page 236 of Assembly Journal No. 14, September 18. Please report by telegraph any developments which may have taken place in direction of ending deadlock and whether there is greater prospect of an agreement at forthcoming session.

Department did not receive your despatch No. 584, September 10, until yesterday and the comments you request will be sent as soon as it has had time to study your report.

KELLOGG

500.A16/72 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

[Paraphrase]

BERNE, *October 12, 1928—4 p. m.*

[Received 7 p. m.]

97. Department's 90, October 4, 7 p. m. I have inquired at League Secretariat whether any developments toward ending the deadlock have taken place between the last meeting of the Special Commission on private manufacture and the adoption of the resolution to summon a session of the Commission on December 5. I have not been able to find any evidence that the situation has been altered. Some vaguely optimistic remarks by the delegates in the Third Committee are the utmost that can be shown.

As it seems very improbable that any tangible results will come from the approaching meeting, and as it seems that the Commission is summoned only to satisfy those members of the League who demand continuance of action on disarmament and closely related questions in order to appease public opinion at home and to maintain prestige of the League, the Department may wish to consider advisability of program somewhat as follows:

In most courteous language inform Secretary General that having received summons to the coming meeting we have given careful thought to our own position in reference to Committee's work; that we have taken note of fact that great majority of States represented desire some form of licensing private manufacture and that this, for reasons which have been made clear in the Commission, cannot be accepted by this Government; that the statement of our position on publicity has been made so clear and definite that all members of the Commission are familiar with it; that in the present status of the negotiations, therefore, we fear that our presence might impede achievement of some form of agreement among the other delegations; that we are animated by most earnest desire that Commission work out some constructive solution; and that if such an agreement be reached, we shall study it with deepest interest and give careful consideration as to adherence thereto in conformity with our own special position as already explained in the Commission.

The Department will be cognizant, of course, of fact that if we follow course suggested above we shall run a certain amount of risk that attempt may be made to impute a failure on part of Commission to our nonparticipation. This consideration would be of greatest importance if it concerned a political gathering, but Department may feel that it carries less weight when question is one of a technical meeting.

WILSON

500.A16/72 : Telegram

*The Acting Secretary of State to the Ambassador in Belgium
(Gibson)*

[Paraphrase]

WASHINGTON, *October 16, 1928—4 p. m.*

71. Wilson's telegram No. 97, October 12, to Department in regard to next session of Commission on private manufacture of arms.⁶⁹

The Department is giving consideration to Wilson's suggestion and would like to have your opinion before coming to a decision.

Although the Department would have preferred that further meetings be postponed until there should be a greater prospect of an agreement, and although it is aware that participation in forthcoming session on December 5 will probably be futile as regards actual accomplishments, there are several reasons, nevertheless, which make doubtful the advisability of carrying out Wilson's suggestions at present time. Among these the most important is the possibility which Wilson mentions in his last paragraph, that the United States may be blamed for failure to agree at next meeting. Press and public opinion might fail to discern distinction between political gathering and technical meeting, as Wilson suggests. Our nonparticipation, furthermore, would invite embarrassing comparisons with Soviet Government's action in refusing to attend meetings of the Commission.

The press in this country and, it is believed, that of other countries also, has paid little attention to meetings of Commission, its successive failures so far having elicited little adverse comment. Decision on our part to withdraw would have immediate news value and would focus attention on futility of Commission's labors, thus lending further color to Russian thesis.

Lastly, if Commission, in our absence, should reach some agreement not acceptable to this Government, it would be difficult to meet effectively the charge that after refusing to collaborate we were trying subsequently to render abortive the work accomplished without our participation.

Please telegraph Department your views as soon as possible on these points and on any others which may occur to you.

CLARK

⁶⁹ By telegram No. 93, Oct. 16, 3 p. m. (not printed), the Department had instructed Mr. Wilson to repeat to Mr. Gibson his telegram No. 97, *supra*.

500.A16/73 : Telegram

The Ambassador in Belgium (Gibson) to the Secretary of State

[Paraphrase]

BRUSSELS, *October 18, 1928—noon.*

[Received October 18—11:25 a. m.]

68. Department's No. 71, October 16, 4 p. m. On sentiment in Geneva I agree with Wilson's suggestion, which he had discussed previously with me. That is the only phase which I have felt qualified to consider. If press comments in America, however, are likely to confuse this meeting with general disarmament, and take our nonparticipation as a refusal to cooperate in arms limitation, then it is obvious that the proposal should be considered in that light.

If the meeting is called with no greater prospect of an agreement than exists at present, and if it is felt that we should be represented in order to avoid misunderstanding at home, then I believe it desirable that our representation should be reduced to a minimum. One representative with civilian assistant should be sufficient, as no new technical problems can very well be brought up. This representative could easily refuse to be drawn into debate, limiting himself to repeating previous statements on our position should this be necessary in order to avoid distortion.

GIBSON

500.A16/76 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*WASHINGTON, *November 21, 1928—6 p. m.*

260. For Wilson. Your despatch No. 609, October 2, concerning Arms Manufacture Commission.⁷⁰

Department is sending by pouch to Berne two instructions (1) approving your position at last session of Commission,⁷¹ and (2) designating you as American Delegate to attend Third Session.⁷² Rand is being instructed to act as Technical Assistant, and Blake as Disbursing Officer.

KELLOGG

⁷⁰ Not printed; see telegram No. 92, Oct. 2, 3 p. m., from the Minister in Switzerland, p. 314.

⁷¹ *Infra.*

⁷² Not printed.

500.A16/69

The Secretary of State to the Minister in Switzerland (Wilson)

No. 354

WASHINGTON, November 22, 1928.

SIR: With reference to your Despatch No. 584 of September 10, 1928, reporting on the second session of the Special Commission for the Preparation of a draft Convention on the Private Manufacture of Arms and Ammunition and of Implements of War, you are advised that the Department has studied your report, in the light of the minutes of the meetings and of the Special Commission's report to the Council, and is appreciative of the fact that you have presented the views and supported the interests of this Government, in harmony with your instructions.

In its Instruction No. 276 of August 9, 1928, the Department stated in paragraph two of page one that

It should be clearly understood that any draft convention adopted must provide for the same degree of publicity for state manufacture as for private manufacture, and that any convention which establishes a regime of supervision, control, or inspection will not be acceptable to the United States.

And in paragraph two of page two, that

While the Department does not anticipate that any attempt will be made to resume the controversy regarding publicity of government manufacture, you should, in the event of this contingency . . . reassert with due emphasis this Government's refusal under any circumstances to consider entering an agreement which does not deal with government manufacture on the same footing as private manufacture. You should similarly oppose the inclusion of any provisions looking toward the supervision and control of arms manufacture as distinct from publicity.

These instructions remain the basis of this Government's position.

The Department regards its Draft Convention as affording a desirable basis of discussion and authorizes you to make such use of it, either in its entirety or by separate clauses, as seems to you most likely to support this Government's interest or to make clear this Government's desire to promote disarmament.

The position of this Government with respect to the manufacture of arms, munitions and implements of war remains substantially unchanged. The same objections and same reservations set forth in its Instruction No. 276 of August 9, 1928, still apply to the proposals elaborated in the minutes and report of the second session of the Special Commission. However, within its reservations, it is felt that there is room for accommodation to the views of other Governments, where it seems likely that such an attitude would promote a general agreement to which this Government could subscribe. The Depart-

ment, therefore, brings to your attention its views with regard to the draft convention adopted by the Special Commission on August 30, 1928.⁷³

The Department considers that the words "government supervision" in the second paragraph of the Preamble are covered by your general reservation on the system of licensing under Article 3.

As concerns your reservation regarding Category IV, under Article 1, the Department refers to its telegram No. 1, of August 28, 1928, particularly the sentence: "If the other Governments are not prepared to accept the inclusion in the provision of all those manufactured under military specifications, you should take the position that only aircraft and engines manufactured for the armed forces of the respective countries should be included." Should you find that there is a greater possibility of agreement on the basis of this latter position, you are authorized to withdraw your above-mentioned reservation and to propose the inclusion only of aircraft and engines manufactured for the armed forces of the respective countries.

Your stand on Articles 2, 3 and 4, especially as concerns the system of licensing, is approved. The Department is firmly convinced that the fullest publicity should be called for in Article 5, for both public and private arms manufacture, and is in full accord with your reservations under this article. You are requested to continue your endeavors to secure the agreement of the other Governments to the publication of full particulars of weight, number and value of arms manufactured.

The object of the words "for it" in paragraph two of Article 5 is not altogether clear. If they are intended to exclude from the annual returns arms manufactured by the State for a foreign Government or for private individuals or organizations, they are clearly open to grave objections. The Department would like to be informed of the object of these words, and suggests that you endeavor to have them stricken out.

The Department continues to believe that Article 4 of its draft is preferable to Article 6 adopted by the Commission, as being more specific, and you should endeavor to secure the adoption of the American proposal appended to Article 6 relating to naval specifications. In this connection it is pointed out that since the data referred to may often be obtained in such manuals as Jane's "Fighting Ships", there would appear to be no valid reason why Governments should be unwilling to publish the details requested. If the other Governments remain unwilling to accept the proposal, you need not insist on this point. You may also make a concession with regard to the two-month

⁷³ *Ante*, p. 303.

period in which returns must be published, although the Department is of opinion that it may prove difficult to collect the necessary statistics in so short a time.

With regard to Article 8, it appears evident that in the event of a major war the convention would in fact be suspended, whatever its provisions. However, the Department is of opinion that certain European states are more concerned in this provision than is the United States, and that this Government may find it possible to acquiesce in a text acceptable to the other Governments; provided that the text adopted is not manifestly to the disadvantage of this Government, as, for example, being so phrased as to exempt all European Governments from publicity in the event of a European war, while imposing upon this Government a continued obligation which might be used as a means to impugn its neutrality. The Department wishes to be informed of the text of this Article, as agreed upon, before deciding whether or not it is acceptable.

The Department views the question of full publicity of State and private manufacture as the most important feature of this convention, and desires particularly that its support of complete publicity shall be duly registered in the forthcoming session of the Special Commission. It considers that the concessions referred to which this Government might be prepared to make in regard to Articles 1, 6 and 8 might afford an opportunity of gaining the consent of the other Governments to the form of publicity desired. Under our system of government, Congress has jurisdiction over interstate and foreign commerce, while manufacture or production is generally within the jurisdictions of the several States. Accordingly, the United States Government would be unwilling to sign a convention which incorporated a license system subjecting private manufacturers to Federal control. Should the other delegates insist on retaining, as among themselves, the license system contemplated in the report, the Department desires that you should promptly notify it in order that it may take such action as may seem best calculated to prevent a substantial domestic situation from being represented in any way as an unwillingness to cooperate with other nations.

With reference to the selection of the League under Articles 10-15, as the depositary for ratifications and as the means of notification for this treaty if eventually concluded, while the matter does not appear to be pressing at this time, the Department would not, of course, wish to encourage the selection of the League for this purpose if arrangements can be made for deposit elsewhere. As you point out, however, the Department has already accepted deposit at the League as satisfactory in the case of certain other conventions, which, however, have not yet been ratified by this Government. It

is believed that it would be undesirable, prior to ratification of these conventions, to commit the Department to such deposit for further treaties when other arrangements can be made. It would, therefore, appear advisable to encourage postponement of the discussion of this question in relation to the present treaty until such time as the treaty itself has assumed a more concrete form.

The Department desires that you keep it currently informed by telegram as to the course of negotiations and particularly as to the extent of coordination between the points of view expressed by the French and British delegations. In this connection, the Department commends your activities in securing a large measure of support from the delegates to the form suggested in the Department's draft of Article 4 (relating to Category III, concerning naval production) and desires that you continue to advocate publicity as to armament, as well as displacement and dimensions, of vessels of war. It will probably occur to you that your advocacy of more complete naval publicity might afford an avenue by which to explore the possibility of a concerted Anglo-French stand on naval matters, while the question of commercial aircraft might indicate whether the British delegation tends to support the French thesis of "potentials of war", which is unacceptable to this Government.

I am [etc.]

FRANK B. KELLOGG

500.A16/97

*Declaration by the American Representative (Wilson) in the Second Meeting of the Third Session of the Special Commission, December 7, 1928*⁷⁴

Mr. CHAIRMAN, the turn that the discussion has taken this afternoon has confirmed me in an impression which I had that I should like to take an opportunity in this plenary session, when all the delegates are present, to make an appeal to them regarding something that might be done during the interval until we meet again.

I feel that this meeting has clarified the atmosphere of our labours to a considerable extent—at least in the Sub-Committee. We have measurably approached each other's points of view on nearly all questions save the one which to my Government is one of the fundamentals without which the Convention can have little value, namely, that of achieving full publicity for both public and private manufacture. The importance which my Government attaches to this point is, I am convinced, shared by the peoples of the world. We

⁷⁴Extract from minutes transmitted to the Department in Mr. Wilson's despatch No. 673, Dec. 13, *infra*.

have been able to establish that the wishes of a large proportion of the States here represented, at least those represented on the Sub-Committee, lie in the direction of complete equality of treatment for public and private manufacture. I might state the matter a little more definitely to say that a large number of the delegations regard such equality of treatment as essential. That in itself is, I submit, no mean achievement. Certain delegations, however, are still reluctant to afford a full measure of publicity to State manufacture, and have offered us a limited publicity for value only and by categories. What does this mean? As the delegate of the Netherlands has clearly expressed it, it means that the States will be obliged to furnish in some cases five figures, in some cases four figures and in other cases three figures, according to the types of industry and production which take place within their borders.

We have been urged to accept this as the minimum of agreement, but I fail to see that such a minimum would have beneficial results, and indeed, I believe it might have quite the contrary. To state to our various Governments that we have achieved so low a minimum of agreement is a very easy thing; indeed, we might record agreement merely on the principle that we were agreed to disagree.

It is the profound conviction of my Government that our purpose in this work is to make such contribution as we can to the cause of peace. The cause of peace is not served by offering merely a further cause of bewilderment between the States, a further cause of speculation, a further cause perhaps of distrust; it can be furnished by the elimination of doubt following on full publication which provides an accurate knowledge of the facts all over the world.

We have discussed the achievement of publicity by means of three factors: value, weight and numbers. It was clearly brought out in the Sub-Committee that the choice of value as the only means is the choice of the most elastic, the least definite, the least exact of these measures. It is a true minimum, and I fail to see how any lower minimum could have been suggested.

During the course of the debates we have endeavoured to give to the best of our ability the most complete reasons for our attitude concerning complete publicity, and we have consistently endeavoured to understand why certain of the delegations have failed to agree to a full measure of publicity. We have repeatedly asked for explanations and, speaking for myself, and I believe for a considerable number of our members, I cannot find that any adequate attempt has been made to convince us of this necessity; indeed, as I stated yesterday, I should be very reluctant to have to explain to my Government the reason for this attitude on the part of some of the delegations. I should have frankly to say that I do not know.

I realise that we are representatives of our Governments and that we are all bound by more or less detailed instructions. I realise that we cannot hope here and now to change the opinions which have been expressed; indeed, I have nothing but gratitude for the loyalty and clarity with which the members have expressed their views. Nevertheless, I take this opportunity to urge upon all my colleagues to examine with their Governments in the most candid spirit this question of complete publicity, and to present to them the real conviction of a large number of members here present that a treaty providing for anything so far removed from complete publicity would not be a first step towards the achievement of peace, but a step which would arouse vain hopes and consequent disillusionment.

500.A16/97

The Minister in Switzerland (Wilson) to the Secretary of State

No. 673

BERNE, December 13, 1928.

[Received January 11, 1929.]

SIR: With reference to the Department's instruction No. 354, of November 22, 1928, and other correspondence relative to the third session of the Special Commission for the preparation of a draft convention on the private manufacture of arms, munitions and implements of war, I have the honor to report that the Commission sat at Geneva from December 5 to December 7, inclusive. There are few documents to transmit in reporting on this session for the reason that practically the entire time was taken up with subcommittee debates on which there are no minutes. The report drawn up by the subcommittee was submitted to the full Commission in the final meeting on the evening of December 7th, but the members of the Commission who had not been present in the subcommittee took the position that they were unable to approve the report without more time for consideration. It, therefore, has no juridic existence, but the original report (Document C. F. A. 28)⁷⁵ will serve to indicate the trend of the debates which took place in the subcommittee. The revised report of the subcommittee will be found in document C. F. A. 28 (1).⁷⁵

The Chairman, Count Bernstorff, in the first meeting urged a general discussion and was seconded in his appeal by the *Rapporteur*, M. Guerrero. None of the delegates, however, seemed desirous of entering into a general discussion and the Chairman was therefore constrained to suggest an immediate convocation of the small committee which had functioned during the previous session and which was composed of the delegates of Germany, Salvador, Italy, Belgium, Great Britain, France, the Netherlands, Japan, Spain and the United

⁷⁵ Not printed.

States. Spain did not have a delegate at the last session and Mr. Cobian therefore sat on the subcommittee for the first time.

The Chairman of the subcommittee, M. Guerrero, opened the debate on Article 1 of the Draft Convention (Document A.43.1928.IX)⁷⁶ and suggested a discussion of Remark No. 1 thereunder by the Belgian delegation. It was instantly apparent that a situation had arisen which would render it impossible to reach any definite agreement in this session and might perhaps create a situation in which every article of the projected convention might have to be debated over again. The Belgian delegate stated that his Government considered it essential to examine the arrangement of the categories and sub-headings under Article 1 in the light of their unsatisfactory experience in analysing the administrative machinery necessary to carry out the Traffic in Arms Treaty which they expected to ratify at an early date. Sensing a decided opposition on the part of the other members of the subcommittee, the Belgian delegate issued what was in effect an ultimatum, stating that his Government could not sign any convention which was not based on a previous and detailed analysis of the categories of Article 1. At the request of the Chairman, the Belgian delegate submitted his proposal in writing (Document C. F. A. 27).⁷⁷ The French delegate at once took the position that he could not pass upon the terms of Article 5 until he knew exactly what Article 1 was to contain and this statement naturally robbed the subsequent debate of actuality. It was agreed that the delegates present were not prepared, either by instructions or by the presence of technical advisers, to debate the Belgian proposal, and that it would be essential to call a meeting of experts as soon as possible, approximately March 1, 1929, for the purpose of giving consideration to the proposal. Since the substance of the Belgian proposal was not debated, I did not give the American point of view regarding further discussion of the categories of Article 1.

Relative to Remark No. 2, the German delegate declared that he was prepared to withdraw this remark and associate himself with that made by the delegation of the United States.

Discussion then opened on Remark No. 3 which we had inserted relative to aircraft and aircraft engines. As I telegraphed the Department,⁷⁸ there was immediate and vigorous opposition to the admission of our proposal, mainly on the part of the military continental Powers and also on that of Japan. It was evident that the alignment on this question was in general the same as the align-

⁷⁶ Not printed. For text of the draft convention under discussion see p. 303.

⁷⁷ Not printed.

⁷⁸ Telegram not printed.

ment in the Preparatory Commission on the question of "potentiel de guerre". My suggestion as to limiting the category to those "destined for the armed forces" met with no more favor, nor were the two formulas even seriously discussed. It was merely stated axiomatically that so far it had been impossible to distinguish between civil and military aviation. (One of the French experts confided to me that they felt that a distinction was possible in America, but that they had no confidence in the results of any distinction for the continental states). The delegate of the Netherlands, in the final plenary meeting, made a formal proposal that experts should discuss Category IV as well as the Belgian proposal, but was voted down. I declared that the title of the proposed convention and the phraseology of the first sentence of Article 1 were such that if the convention were accepted as it stands, Category IV would constitute an undertaking by all States that they considered civil aviation as war material. Since the points of view expressed by the other delegations, with the exception of the British delegate, are already familiar to the Department, I shall confine myself to describing that taken by Mr. Cadogan. He declared that his Government had been preoccupied, as mine had been, with this question of the definition of civil aviation as war material and for this reason they had in the first instance objected to the inclusion of Category IV in Article 1; that they had withdrawn their objection in deference to the wishes of the other nations, but still felt the inadvisability of cataloguing all aircraft as implements of war.

M. Massigli, the French delegate, finally proposed a clause reading as follows:

"Owing to the difficulties in the way of formulating precise rules which would enable a distinction to be made between military and civil aircraft and without prejudice to any definitions which may subsequently be set up of the one and of the other, no distinction will be made between aircraft built for military purposes and aircraft built for or capable of being used for other purposes".

I transmitted this clause in my telegram No. 2, of December 5, 10 p. m.,⁷⁹ not with the idea that this phraseology was satisfactory, but with the possibility of working out a satisfactory phraseology in the event that the Department felt that our thesis could be protected in some such way.

If I understand thoroughly the Department's point of view as to this reservation, it is based more on the implications involved than on objections to the publication of the information that would be demanded by the Convention. I understand that our objection is to the inclusion of all aviation as "implements of war" and the resulting

⁷⁹ Not printed.

possibility of so branding civil aviation. It had seemed to me that there was a possibility that the note drawn up by the French delegate, or one of revised phraseology, might expressly disclaim any prejudging of the question as to "potentiel de guerre", and at the same time furnish a basis on which we could all agree to this category. I therefore stated that I had no idea how my Government would view this proposal, but I would transmit it to Washington. When it became apparent that no possible result could be obtained from the meeting, I stated that I maintained our reserve as it was not worth while in the present circumstances further to examine this proposal.

Article 2. No debate.

Article 3. Mr. Cadogan withdrew the British objection to the inclusion of Category IV in this article.

Remark 2. After a lively debate, it was decided to strike out the words in Paragraph 1: "or of the arms, ammunition and implements the use of which in war is prohibited by international law", and further to eliminate paragraph 3. This did away with the necessity for maintaining Remark No. 2.

Remark 3. I made a brief declaration regarding our position, which the Chairman stated would be brought to the attention of the Council. (It will not be so brought, since the subcommittee's report was not adopted by the Commission).

Article 4. It was decided to eliminate sub-paragraph (c). The remark therefore disappears.

Article 5. The most vigorous debate, as was to be expected, took place on this article. It is needless to summarize this debate, since the Department is thoroughly familiar with the points of view. The representative of the Netherlands and myself made continuous efforts to force the representatives of France, Japan and Italy to explain why they were reluctant to give full publicity, without eliciting any response from them. The Chairman called for a vote on those who advocated the principle of equal treatment for public and private manufacture. Italy was the only State voting against the principle, with the French delegate maintaining that he would not vote until he knew the text of Article 5. It is safe to assume, however, that they will only acquiesce in the principle of equal treatment if a very limited publicity is accorded. This also was the basis of the Japanese position. A re-wording of Article 5 was adopted which is contained in Document C. F. A. 29.⁸⁰ This phraseology represents a so-called "minimum agreement", but an agreement to which the confirmed advocates of complete publicity, among them ourselves, and the confirmed advocates of a distinction between public and private manufacture, as, for example, Italy, made reservations.

⁸⁰ Enclosure, p. 329.

Article 6. In the discussion of this article I am happy to report a certain measure of achievement. The Japanese delegate could not agree to the inclusion of the remark following this article although Mr. Cadogan did so agree. I thereupon asked the Japanese delegate whether his instructions were definite. He replied that they were. I then stated that my Government had no desire to take such an unbending position in this debate that it would cause difficulties to other governments and make it impossible for them to accept; that I was able to show a certain measure of conciliation in this matter if it was essential, but I pointed out to the Japanese delegate that he was alone in his opposition to the inclusion of this additional information and begged him to consult his Government again as to whether, in view of the circumstances, they would not alter his instructions. In the final meeting Mr. Sato reported that he withdrew his opposition and that therefore the additional information could be inserted. I should like to emphasize at this time the continuous endeavor of the Japanese delegate to meet our point of view as far as his instructions permitted.

The Italian delegate was anxious to adopt in the first paragraph of Article 6 of the phraseology of the Washington Treaty, at least not to adopt any phraseology which delayed publication more than that provided for in the Washington Treaty. The Chairman appointed a subcommittee composed of the naval experts of Italy, France and England to redraft Article 6 satisfactorily. Their redraft is contained in Document C. F. A. 29. In presenting its report, the subcommittee explained that the phrase "date of signing the contract" under subheading (a) had been eliminated, since for purposes of state arsenals the signing of the contract did not exist and was a plain absurdity. Furthermore, to require the date of the signing of the contract for manufacture for outside states and not for manufacture for the state itself would be a violation of the principle of equality of treatment between public and private manufacture.

I acquiesced in Article 6 as prepared by the drafting committee, but stated at the same time that I would have to reserve the right to consult our naval authorities as this was in some degree a technical question and should be passed on by experts.

Article 7. No debate.

Article 8. This article was revised to read: "In time of war the application of the present Convention shall be suspended until the restoration of peace as regards belligerents". Certain reserves were made as will be seen in Document C. F. A. 29.

On the subsequent articles I made the suggestion, which was immediately taken up by Count Bernstorff, that they should be reserved for the final conference, since nothing was to be gained by attempting

to work out phraseology on these articles, which dealt merely with the machinery of ratification, notification, etc. The subcommittee accepted this view.

The text of the projected convention as revised by the subcommittee is contained in Document C. F. A. 29.

As I stated in my first paragraph, the Commission was unable to adopt the report of the subcommittee. Document C. F. A. 28 contains the original report of the subcommittee, while Document C. F. A. 28 (1) contains the revised report.

Bearing in mind your instructions in paragraph 6 of No. 354, relative to the publication of full particulars, and desirous that a certain measure of publicity be given to the point of view that full publicity is essential, I took occasion to prepare certain remarks on this subject for the plenary meeting. When it became clear that the Commission would not even transmit the report of the subcommittee to the Council, it became still more necessary, in my opinion, that some expression of this view should be embodied in permanent form in the records of the third session of the Commission. I therefore delivered a speech, the text of which the Department will find in the minutes of the second meeting.⁸¹ This speech, as was to be expected, aroused a high measure of satisfaction among those who were advocating a large degree of publicity, but Mr. Massigli, the French Delegate, in taking leave of me after the session, remarked: "I had thought that the elections in the United States were over".

I venture to invite the Department's attention to the advisability of immediate consideration of these questions, and especially of immediate study by technical experts of the Belgian proposal in anticipation of the meeting of experts which will presumably be summoned around March 1st. Probably this meeting will shortly be followed by another meeting of the full Commission and therefore I would appreciate the study and preparation of fresh instructions based on the events in the third session at the earliest possible moment. This is particularly necessary in view of the fact that it was decided in the final plenary meeting that full discussion of all the articles of the draft convention will again be opened. I shall submit subsequently various considerations as to the new instructions.

With reference to the latter half of the final paragraph of your 354, I constantly bore in mind your suggestions and venture to submit what can only be impressions. I found that the British delegation made certain concessions in the direction of the draft convention—concessions which were designed to make possible unanimity in the adoption of a single text. There was, however, no such complete

⁸¹ Of these minutes only an extract containing the speech is printed; see *supra*.

agreement between the British delegate and his French colleague as to prevent them from debating actively certain points on which their views differed. In fact I could find no evidence of a previously prepared common basis on naval matters.

Concerning the question of war potentials, the Department will note that I have described above Mr. Cadogan's remarks on our reservation to Category IV of Article 1. There was a clear and distinct statement from him that they disliked the inclusion of all aircraft in this category because of the fact that this might cause the acceptance of a definition that commercial aviation was an implement of war.

I have [etc.]

HUGH R. WILSON

[Enclosure]

*Revised Text of the Preliminary Draft Convention for the Supervision of the Private Manufacture and Publicity of the Manufacture of Arms, Ammunition and of Implements of War*⁸²

PREAMBLE

(To be drawn up by the Conference or at the next session of the special Commission).

Categories

ARTICLE 1

(The same as Chapter I of the Convention for the Supervision of the International Trade in Arms).

Remarks

1. The Belgian Delegation has made a reservation with regard to the advisability of a further study being made of these categories.

2. The Delegation of the United States of America reserved the right to propose for incorporation in the final text of the Convention, a statement limiting the material of Category IV of Article 1 to aircraft and aircraft engines manufactured under military specifications within their territory or jurisdiction, either on their own behalf or on behalf of the Government of another State.

By the term "manufactured under military specifications", it means both material manufactured for purely military purposes and material manufactured for commercial purposes, but on specifications designed to make it capable of military use.

The Delegations of Germany and the Netherlands associate themselves with this reservation.

⁸² C. F. A./29, Geneva, Dec. 7, 1928; submitted by the Sub-Committee.

Supervision and Publicity

ARTICLE 2

(No modification).

ARTICLE 3

The High Contracting Parties undertake not to permit, in the territory under their jurisdiction, the private manufacture as defined in Article 2 of the articles included in Categories I, II, III and IV, unless the manufacturers thereof are licensed by the Government to manufacture the articles referred to in this article.

This licence shall be valid for a period to be determined individually by each High Contracting Party, and shall be renewable for a further period at the discretion of the Government.

Remarks

The Delegation of the United States of America recalled its declaration of principle made previously to the effect that its Government is powerless to prescribe or enforce prohibition or a system of licences upon private manufacture which takes place under the jurisdiction of the States which form the Union of the Government of the United States.

ARTICLE 4

The High Contracting Parties undertake to transmit to the Secretary-General of the League of Nations, or to publish within two months after the close of each quarter beginning on the first day of January, April, July and October, a list of the licences granted or renewed during that quarter, together with:

- (a) A description of the war material for which the licence is granted;
- (b) The name and address of the registered or head office of the licensees and the period for which the licence has been granted.

ARTICLE 5

The High Contracting Parties further undertake to transmit to the Secretary-General of the League of Nations, or to publish annually, a return showing the total production, in value, of the private manufactures licensed in accordance with the provisions of Article 3, in respect of each of the twelve headings of Category I (A and B), of the four headings of Category II (A and B), of the two headings of Category IV, set out in Article I of the present Convention.

The provisions of the foregoing paragraph shall also apply to the production of the material manufactured for it in establishments of which the State is the sole proprietor, or in any other establishment on behalf of the State.

The High Contracting Parties undertake to transmit to the Secretary-General of the League of Nations, or to publish, the text of the provisions of all statutes, orders or regulations in force within their territory dealing with articles covered by Categories I, II and IV. All provisions enacted for the purpose of carrying out the present Convention and all amendments and additions to such statutes, orders, regulations and provisions shall also be published, or transmitted to the Secretary-General of the League of Nations.

Remarks

1. Certain Delegations made the reservation that in order to be effective and to satisfy the requirements of the Assembly's resolution of September 24th, 1927, publicity should be prescribed in terms of weight and (or) number and value.

2. Certain Delegations were of opinion that as regards State manufacture, publicity should be given in terms of total value per category and that publicity in regard to State manufacture must be brought into line with the general conditions which will be laid down by the Convention for the Limitation of Armaments.

Certain Delegations, while accepting that remark, consider that it must not be interpreted in such a way as to subordinate the convening of a Conference on Private Manufacture to that of the General Conference on the Reduction and Limitation of Armaments.

3. The French Delegation, while abstaining from voting upon this Article, stated that its Government was ready to consider in regard to the State manufactures referred to in the present Article, any publicity corresponding to the supervised limitations which may be fixed by the Convention for the Reduction and Limitation of Armaments.

ARTICLE 6

The High Contracting Parties, in all cases covered by Category III, undertake to publish as soon as possible, and in any case not later than within two months after the close of each quarter beginning on January 1st, April 1st, July 1st and October 1st, the return for that quarter, giving the information detailed below for each vessel of war constructed, in the course of construction, or to be constructed within their territorial jurisdiction.

(a) The date of laying the keel, and the following data :

Standard displacement in tons and metric tons; the principal dimensions, namely, length at water-line, extreme beam at or below water-line and main draft at standard displacement;

(b) Date of delivery, or date of completion, together with the following data with respect to the vessel at that date:

Standard displacement in tons and metric tons; the principal dimensions, namely, length at water-line, extreme beam at or below water-line, mean draft at standard displacement, as well as the following information regarding the armament installed on board the vessel at the date of delivery and forming part of the vessel's normal armament:

number and calibre of guns;
 number and calibre of torpedo tubes;
 number of bomb throwers;
 number of machine-guns.

By standard displacement in the present article is to be understood the displacement of the vessel complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

ARTICLE 7

No modification.

General Provisions

ARTICLE 8

In time of war the application of the present Convention shall be suspended as regards belligerents until the restoration of peace.

Remarks

Certain Delegations have expressed the opinion that the following words should be added. . . . "and also as regards nonbelligerents. Neutral High Contracting Parties who avail themselves of this right shall duly notify the other High Contracting Parties."

The Italian Delegation proposes that this article should be drafted as follows:

"In time of war the application of the present Convention shall be suspended until the restoration of peace as regards belligerents and as regards nonbelligerents upon their giving due notice to the other High Contracting Parties, in conformity with an undertaking to this effect."

ARTICLE 9

No modification.

ARTICLE 10

No modification.

ARTICLE 11

No modification.

ARTICLE 12

No modification.

The Delegations of Germany, Italy and Salvador, however, associated themselves with the proposal of the Netherlands Delegation that this article should be omitted.

The Sub-Committee was of opinion that this article should be reserved for discussion by the Conference.

ARTICLE 13

No modification.

ARTICLE 14

No modification.

ARTICLE 15

No modification.

The Spanish Delegation associated itself with the observation made by the Delegation of Salvador. The Sub-Committee was of opinion that this article should be reserved for discussion by the Conference.

ARTICLE 16

No modification.

The Sub-Committee was of opinion that this article should be reserved for discussion by the Conference.

500.A16/99

The Minister in Switzerland (Wilson) to the Secretary of State

No. 692

BERNE, *December 28, 1928.*

L. of N. No. 1249

[Received January 11, 1929.]

SIR: Referring to the Legation's telegram No. 128, of December 26, 3 p.m.,⁸³ I have the honor to transmit herewith five copies of a communication, with its enclosures, from the League of Nations, dated December 22, 1928, C. F. A.-31,⁸³ in which the Chairman of the Special Commission for the preparation of a draft convention on the manufacture of arms and ammunition and of implements of war requests the appointment of an expert to discuss the proposal submitted by the Belgian delegate with regard to the drafting of Article I of the preliminary draft convention. The meeting of experts will be held on March 11, 1929, at Geneva.

I have [etc.]

(For the Minister)

PIERREPONT MOFFAT

Secretary of Legation

⁸³ Not printed.

POLICY OF THE DEPARTMENT OF STATE REGARDING THE EXPORTATION OF MILITARY EQUIPMENT TO CERTAIN COUNTRIES

811.248/53

The Acting Secretary of War (MacNider) to the Secretary of State

WASHINGTON, October 15, 1927.

MY DEAR MR. SECRETARY: Reference is made to the policy of the War Department concerning the sale of Liberty Aviation engines abroad, as set forth in the letter from the Assistant Secretary of War (Mr. Davison), to the Chief of Air Corps, dated August 11, 1927, a copy of which is enclosed.⁸⁴

For his information in taking action upon applications for the purchase of Liberty engines for sale abroad in lots of less than fifty (50), the Chief of Air Corps has requested that he be furnished a list of those countries with which the United States is not on satisfactory diplomatic relations.

For the purpose indicated, it is requested that this Department be furnished a list of those countries to which, in the opinion of the State Department, there is objection to having aviation engines exported.

Sincerely yours,

HANFORD MACNIDER

811.248/53

The Secretary of State to the Secretary of War (Davis)

WASHINGTON, January 11, 1928.

SIR: I have the honor to refer to your letter of October 15, 1927, requesting to be furnished with a list of those countries to which, in the opinion of this Department, there is objection to having Liberty Aviation engines exported.

The following observations relative to certain countries are deemed pertinent to your inquiry under present conditions.

Latin America. At the present time an embargo is in force against the shipment of arms and ammunition to Honduras⁸⁵ and Nicaragua.⁸⁶ The Department would not view with favor the export of any arms to Nicaragua except for the use of the National Guard which is commanded by American officers. The Department would be disposed to give favorable consideration to the purchase of a moderate quantity of arms and munitions by the Honduran Government but is closely watching all shipments to private individuals. In

⁸⁴ Not printed.⁸⁵ Proclaimed Mar. 22, 1924; *Foreign Relations*, 1924, vol. II, p. 322.⁸⁶ Proclaimed Sept. 15, 1926; 44 Stat. 2625.

view of the special situation now existing as regards Peru, Chile and Bolivia, the Department would desire to give very careful consideration to any proposed sale of arms, munitions or aviation engines to those countries. The regime now functioning in Ecuador has not been recognized by the United States although this Government is maintaining friendly relations therewith, and the Department would not object to the sale of aviation engines to the authorities in control of the government of that country should your Department desire to dispose of Liberty engines there. With regard to Mexico I may say that this Government has for some time past been maintaining an embargo on arms and munitions of war to that country, including aviation material for the use of the Mexican Government.⁸⁷ However, the Department is now giving favorable consideration to applications covering aircraft and aviation material destined for use in Mexico.⁸⁸

Europe. It is the policy of the Department to view with disfavor the exportation from the United States of military equipment to, or intended for, Russia, and in view of this fact the Department would not look with favor on the sale at the present time by your Department of Liberty engines for export to that country, Germany, Austria and Hungary. Article 170 of the Treaty of Versailles⁸⁹ provides that "importation into Germany of arms, munitions, and war material of every kind shall be strictly prohibited". However, Article 201 of the same Treaty provides that

"During the six months following the coming into force of the present Treaty, the manufacture and importation of aircraft, parts of aircraft, engines for aircraft, [and] parts of engines for aircraft, shall be forbidden in all German territory."

Similar provisions to those of Articles 170 and 201 of the Treaty of Versailles may be found in the Treaty of St. Germain (Articles 134 and 147, respectively) and the Treaty of Trianon (Articles 118 and 131, respectively).⁹⁰ The foregoing treaty provisions would appear to have no bearing on the importation into Germany, Austria and Hungary at this time of civilian aircraft engines, parts, et cetera. Whether this is true of military aircraft material, et cetera, is not so clear, in view of the provisions of Article 170 of the Treaty, which might possibly be held to apply. In the event that your Department should consider the sale of Liberty Aviation engines in any of the three above mentioned countries, it would

⁸⁷ Proclamation of Jan. 7, 1924; *Foreign Relations*, 1924, vol. II, p. 428.

⁸⁸ See *Foreign Relations*, 1927, vol. III, pp. 233 ff.

⁸⁹ William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers*, 1910-1923 (Washington, Government Printing Office, 1923, vol. III, p. 3329.

⁹⁰ *Ibid.*, pp. 3149, 3539.

seem advisable to give further consideration to this point. Upon your request the Department will be pleased to take this point under further advisement.

Far East. In so far as China is concerned I would call attention to the Presidential Proclamation of March 4, 1922,⁹¹ a copy of which is enclosed herewith, making unlawful the exportation of arms and munitions of war to that country which would seem to prevent the exportation to China of aviation engines for military purposes. There would be no objection to the exportation to China of aviation engines if this Department were satisfied that they would be used for commercial purposes.

This Department would, however, like to be advised of any requests for the sale of aviation material or war supplies to any foreign government, as the situation changes from time to time.

I have [etc.]

FRANK B. KELLOGG

CONVENTION AND PROTOCOL FOR THE ABOLITION OF IMPORT AND EXPORT PROHIBITIONS AND RESTRICTIONS, WITH SUPPLEMENTARY AGREEMENT AND PROTOCOL, SIGNED AT GENEVA⁹²

Treaty Series No. 811

*International Convention and Protocol for the Abolition of Import and Export Prohibitions and Restrictions, Signed at Geneva, November 8, 1927, Together With a Supplementary Agreement and Protocol, Signed July 11, 1928*⁹³

The President of the German Reich; the President of United States of America; the President of the Austrian Federal Republic; His Majesty the King of the Belgians; His Majesty the King of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Bulgarians; the President of the Chilian Republic; His Majesty the King of Denmark; His Majesty the King of Egypt; the President of the Estonian Republic; the President of the Republic of Finland; the President of the French Republic; His Serene Highness the Gov-

⁹¹ *Foreign Relations, 1922*, vol. 1, p. 726.

⁹² For correspondence concerning the First International Conference for the Abolition of Import and Export Prohibitions and Restrictions, see *ibid.*, 1927, vol. 1, pp. 246 ff.; for the Second Conference, see *post*, pp. 366 ff.

⁹³ In English and French. French text not printed. Convention and protocol signed on the part of the United States, January 30, 1928. Supplementary agreement and protocol signed on the part of the United States, July 31, 1928. Ratification advised by the Senate, with reservation, September 19, 1929 (legislative day of September 9); ratified by the President; September 20, 1929; ratification of the United States deposited at Geneva, September 30, 1929; proclaimed by the President, March 6, 1930.

ernor of Hungary; His Majesty the King of Italy; His Majesty the Emperor of Japan; the President of the Latvian Republic; Her Royal Highness the Grand-Duchess of Luxemburg; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; the President of the Polish Republic; the President of the Portuguese Republic; His Majesty the King of Roumania; His Majesty the King of the Serbs, Croats and Slovenes; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; the President of the Czechoslovak Republic; the President of the Turkish Republic:

Having regard to the resolution of the Assembly of the League of Nations dated September 25th, 1924;

Being guided by the conclusions of the International Economic Conference held at Geneva in May 1927, and agreeing with the latter that import and export prohibitions, and the arbitrary practices and disguised discriminations to which they give rise have had deplorable results, without the grave drawbacks of these measures being counterbalanced by the financial advantages or social benefits which were anticipated by the countries which had recourse to them;

Being persuaded that it is important for the recovery and future development of world trade that Governments should abandon a policy which is equally injurious to their own and to the general interest;

Being convinced that a return to the effective liberty of international commerce is one of the primary conditions of world prosperity; and

Considering that this object may best be achieved by resort to simultaneous and concerted action in the form of an international convention;

Have appointed their plenipotentiaries, namely:

[Here follows list of names of plenipotentiaries.]

Who, having communicated their full powers, found in good and due form, have agreed to the following provisions:

ARTICLE 1

The provisions of the present Convention shall apply to prohibitions and restrictions imposed on the importation into the territories of any High Contracting Party of goods the produce or manufacture of the territories of any other High Contracting Party, and to prohibitions and restrictions imposed on the exportation of goods from the territories of any High Contracting Party to the territories of any other High Contracting Party.

ARTICLE 2

Subject to the exceptions provided for in the following articles, the High Contracting Parties undertake to abolish within a period of six months from the date of the coming into force of the present Convention, in so far as the respective territories of each of them are concerned, all import and export prohibitions or restrictions, and not thereafter to impose any such prohibitions or restrictions. During this period each of the High Contracting Parties will adopt all appropriate measures in order to reduce existing prohibitions and restrictions to a minimum and will refrain from imposing any new prohibitions or restrictions.

Further, the High Contracting Parties undertake to adopt the necessary measures to ensure that the provisions of the present Convention are strictly observed by all authorities, central or local, and that no regulation is issued in contravention thereof.

ARTICLE 3

Should the High Contracting Parties, in pursuance of their legislation, subject the importation or exportation of goods to certain regulations in respect of the manner, form or place of importation or exportation, or the imposition of marks, or to other formalities or conditions, they undertake that such regulations shall not be made a means of disguised prohibition or arbitrary restriction.

ARTICLE 4

The following classes of prohibitions and restrictions are not prohibited by the present Convention, on condition, however, that they are not applied in such a manner as to constitute a means of arbitrary discrimination between foreign countries where the same conditions prevail, or a disguised restriction on international trade:

1. Prohibitions or restrictions relating to public security.
2. Prohibitions or restrictions imposed on moral or humanitarian grounds.
3. Prohibitions or restrictions regarding traffic in arms, ammunition and implements of war, or, in exceptional circumstances, all other military supplies.
4. Prohibitions or restrictions imposed for the protection of public health or for the protection of animals or plants against disease, insects and harmful parasites.
5. Export prohibitions or restrictions issued for the protection of national treasures of artistic, historic or archaeological value.
6. Prohibitions or restrictions applicable to gold, silver, coins, currency notes, banknotes or securities.

7. Prohibitions or restrictions designed to extend to foreign products the regime established within the country in respect of the production of, trade in, and transport and consumption of native products of the same kind.

8. Prohibitions or restrictions applied to products which, as regards production or trade, are or may in future be subject within the country to State monopoly or to monopolies exercised under State control.

ARTICLE 5

Nothing in this Convention shall affect the right of any High Contracting Party to adopt measures prohibiting or restricting importation or exportation for the purpose of protecting, in extraordinary and abnormal circumstances, the vital interests of the country.

Should measures of this character be adopted, they shall be applied in such a manner as not to lead to any arbitrary discrimination against any other High Contracting Party. Their duration shall be restricted to that of the causes or circumstances from which they arise.

ARTICLE 6

1. The High Contracting Parties, recognising that there exist in the case of certain of them situations of fact or of law which prevent the latter from immediately undertaking, as regards certain specified products, the engagements entered into under the previous articles, have deemed it equitable to authorise these High Contracting Parties to make a reservation in regard to certain temporary exceptions, which the latter undertake to withdraw as soon as the circumstances from which they arise cease to exist.

2. Moreover, the High Contracting Parties, recognising that the abolition of certain import or export prohibitions or restrictions applied by some of them would involve the latter in grave difficulties, and that, moreover, these prohibitions or restrictions do not prejudicially affect the trade of other countries, have also deemed it equitable to authorise these High Contracting Parties to make a reservation in regard to these exceptions.

3. The Annex to the present Convention sets forth the exceptions coming within the provisions of the two preceding paragraphs, which have been agreed to on this day's date in favour of the High Contracting Parties who are mentioned by name in the Annex and who have signed the Convention on that date.

4. Exceptions which the High Contracting Parties may desire to claim subsequently to that date shall be dealt with in accordance with the procedure laid down in the Protocol to the present Convention.

ARTICLE 7

Should one of the High Contracting Parties be obliged to adopt any measure of prohibition or restriction against products of any foreign country, whether the Convention be applicable to that country or not, he shall frame the measure in such a way as to cause the least possible injury to the trade of the other High Contracting Parties.

ARTICLE 8

If a dispute arises between two or more High Contracting Parties as to the interpretation or application of the provisions of the present Convention—with the exception of Articles 4, 5 and 6, and of the provisions of the Protocol relating to these articles—and if such dispute cannot be settled either directly between the parties or by the employment of any other means of reaching agreement, the parties to the dispute may, provided they all so agree, before resorting to any arbitral or judicial procedure, submit the dispute with a view to an amicable settlement to such technical body as the Council of the League of Nations or the parties concerned may appoint. This body will give an advisory opinion after hearing the parties and, if necessary, effecting a meeting between them.

The advisory opinion given by the said body will not be binding upon the parties to the dispute unless it is accepted by all of them, and the parties, if they all so agree, may either after resort to such procedure, or in lieu thereof, have recourse to any arbitral or judicial procedure which they may select, including reference to the Permanent Court of International Justice as regards any matters which are within the competence of that Court under its Statute.

If a dispute of a legal nature arises as to the interpretation or application of the provisions of the present Convention—with the exception of Articles 4, 5 and 6, and of the provisions of the Protocol relating to these articles—the parties shall, at the request of any of them, refer the matter to the decision of the Permanent Court of International Justice or of an arbitral tribunal selected by them, whether or not there has previously been recourse to the procedure laid down in the first paragraph.

In the event of any difference of opinion as to whether a dispute is of a legal nature or not, the question shall be referred for decision to the Permanent Court of International Justice or to the arbitral tribunal selected by the parties.

The procedure before the body referred to in the first paragraph above or the opinion given by it will in no case involve the suspension of the measures to which the dispute refers; the same will apply in the event of proceedings being taken before the Permanent Court of

International Justice—unless the Court decides otherwise under Article 41 of its statute—or before the arbitral tribunal selected by the parties.

Nothing in the present Convention shall be construed as prejudicing the rights and obligations derived by the High Contracting Parties from the engagements into which they have entered with reference to the jurisdiction of the Permanent Court of International Justice, or from any bilateral conciliation or arbitration conventions between them.

ARTICLE 9

Any High Contracting Party may, either upon ratifying the present Convention or thereafter, declare that he undertakes, in regard to any other High Contracting Party accepting the same obligation, to extend the application of the provisions of paragraph 3 of Article 8 to any dispute which may arise in connection with the interpretation or application of the provisions of the present Convention, including all or part of Articles 4, 5 and 6, and whether or not the dispute is of a legal nature.

Any High Contracting Parties who do not give the undertaking referred to in paragraph 1 as regards Articles 4, 5, and 6, or certain parts of these Articles, and as regards the provisions of the Protocol relating thereto, may make the provisions of paragraphs 1 and 2 of Article 8 applicable to these matters as between themselves.

ARTICLE 10

Any High Contracting Party may at the time of signature, ratification or accession declare that, in accepting the present Convention, he does not assume any obligations in respect of all or any of his colonies, protectorates or territories under suzerainty or mandate; and the present Convention shall not apply to any territories named in such declaration.

Any High Contracting Party may give notice to the Secretary-General of the League of Nations at any time subsequently that he desires that the Convention shall apply to all or any of his territories which have been made the subject of a declaration under the preceding paragraph, and the Convention shall apply to all the territories named in such notice ninety days after its receipt by the Secretary-General of the League of Nations.

Any High Contracting Party may at any time declare that he desires that the present Convention shall cease to apply to all or any of his colonies, protectorates or territories under suzerainty or mandate, and the Convention shall cease to apply to the territories named in such declaration one year after its receipt by the Secretary-General of the League of Nations.

ARTICLE 11

Nothing in the present Convention shall prejudice the rights and obligations which the High Contracting Parties may derive from international Conventions in force to which they are parties.

The present Convention shall not prejudice the provisions of any bilateral agreements in force at the present date between the High Contracting Parties which establish, in regard to import and export prohibitions or restrictions, a more liberal regime than that established by the provisions of the present Convention.

ARTICLE 12

The present Convention shall not in any way affect rights and obligations arising from the Covenant of the League of Nations.

ARTICLE 13

The High Contracting Parties shall, within twelve months after the coming into force of the present Convention in their territories, communicate to one another through the Secretary-General of the League of Nations a report on the steps taken to give effect to the provisions of the Convention.

ARTICLE 14

The present Convention, of which the French and English texts are both authentic, shall bear this day's date.

It shall be open for signature until January 1st, 1929, on behalf of any Member of the League of Nations or of any non-Member State represented at the Conference which drew up this Convention or to which the Council of the League of Nations shall, for this purpose, have communicated a copy of the present Convention.

Members of the League of Nations and non-Member States on whose behalf the Convention has been signed prior to February 1st, 1928, may avail themselves of the procedure referred to in Article 6, paragraph 4.

ARTICLE 15

The Present Convention shall be ratified.

The instruments of ratification shall be deposited with the Secretary-General of the League of Nations, who shall notify the receipt thereof to all Members of the League and to the non-Member States referred to in the previous article.

ARTICLE 16

On and after January 1st, 1929, any Member of the League of Nations or any State referred to in Article 14 may accede to the present Convention.

This accession shall be effected by a notification made to the Secretary-General of the League of Nations, to be deposited in the archives of the Secretariat. The Secretary-General shall at once notify such deposit to all who have signed or acceded to the Convention.

ARTICLE 17

The present Convention shall come into force under the conditions and on the date to be determined at the meeting provided for hereinafter.

Between June 15th and July 15th, 1928, the Secretary-General of the League of Nations shall invite the duly accredited representatives of the Members of the League of Nations and of non-Member States on whose behalf the Convention shall have been signed on or before June 15th, 1928, to attend a meeting at which they shall determine:

(a) The reservations which, having been communicated to the High Contracting Parties in accordance with Article 6, paragraph 4, may, with their consent, be made at the time of ratification;

(b) The conditions required for the coming into force of the Convention and, in particular, the number and, if necessary, the names of the Members of the League and of non-Member States, whether they are signatories or not, whose ratification or accession must first be secured;

(c) The last date on which the ratifications may be deposited and the date on which the Convention shall come into force if the conditions required under the preceding paragraph are fulfilled.

If, on the expiration of this period, the ratifications upon which the coming into force of the Convention will be conditional have not been secured, the Secretary-General of the League of Nations shall consult the Members of the League of Nations and non-Member States on whose behalf the Convention has been ratified and ascertain whether they desire nevertheless to bring it into force.

ARTICLE 18

The present Convention may be denounced by a notification in writing addressed to the Secretary-General of the League of Nations on behalf of any Member of the League of Nations or of any non-Member State after the expiration of a period of five years reckoned from the date on which the Convention shall have entered into force.

Such denunciation shall take effect twelve months after the date

on which it is received by the Secretary-General of the League of Nations, and shall operate only in respect of the Member of the League of Nations or the non-Member State on whose behalf it is made.

Nevertheless, the Convention may be denounced on behalf of any Member of the League of Nations or any non-Member State after the expiration of the third year from the date of the present Convention, if, after that period, any one of the exceptions allowed in virtue of Article 6, paragraph 1, still exists. This denunciation shall take effect six months after the date on which it is received by the Secretary-General, and shall operate only in respect of the Member of the League of Nations or the non-Member State on whose behalf it is made.

Furthermore, the Convention may be denounced on behalf of any Member of the League of Nations or of any non-Member State after the expiration of the fifth year from the date of the present Convention, if, after that period, such Member of the League of Nations or non-Member State considers that any one of the exceptions allowed by the High Contracting Parties at the meeting provided for in Article 17 has impaired the effects of the present Convention.

This denunciation shall take effect six months after the date on which it is received by the Secretary-General, and shall operate only in respect of the Member of the League of Nations or the non-Member State on whose behalf it is made.

Any denunciation made in accordance with the foregoing provisions shall be notified immediately by the Secretary-General of the League of Nations to all the other High Contracting Parties.

If, as a result of denunciations, the conditions for the coming into force of the Convention which the High Contracting Parties may lay down at the meeting provided for in Article 17 should no longer be fulfilled, any High Contracting Party may request the Secretary-General of the League of Nations to summon a Conference to consider the situation created thereby. Failing agreement to maintain the Convention, each of the High Contracting Parties shall be discharged from his obligations from the date on which the denunciation which led to the summoning of this Conference shall take effect.

ARTICLE 19

If, before the expiration of the period of five years mentioned in paragraph 1 of Article 18, notifications should be addressed to the Secretary-General of the League of Nations on behalf of one-third of the Members of the League of Nations and of non-Member States to which the present Convention applies, informing him that they desire the Convention to be revised, all the Members of the League of Nations and all non-Member States to which the Convention

applies agree to take part in any consultation which may be held for this purpose.

If the revision has taken place before the end of the fifth year from the date of the coming into force of the present Convention, any Member of the League of Nations or non-Member State who has not accepted the revised Convention shall have the right to denounce the present Convention, without regard to the period of five years provided for in paragraph 4 of Article 18. Such denunciation shall take effect on the date on which the revised Convention comes into force.

If the revision has taken place in the course of the fifth year from the date of the coming into force of the present Convention, the period of denunciation referred to in paragraph 1 of Article 18 will be prolonged by one year.

ANNEX TO ARTICLE 6

In accordance with Article 6, paragraph 3, and with Section IV (*d*) of the Protocol, each of the exceptions maintained in favour of the countries mentioned below is only admitted under the terms of the present Convention if the country concerned appends its signature* thereto on this day's date, and if, on that same date, the prohibition or restriction which it seeks to maintain is still in force.

I. *Exceptions agreed to under Paragraph 1*

Germany	Coal, coke, peat, lignite, briquettes	import and export
	Scrap iron and scrap of other metals and alloys	export
Austria	Scrap iron and scrap of other metals and alloys	export
Belgium	Scrap iron and scrap of other metals and alloys	export
Great Britain	Synthetic organic dyestuffs and colours or colouring matter containing them, as well as organic intermediate products used in the manufacture of such dyestuffs, colours and colouring matter	import
France	Scrap iron and scrap of other metals and alloys	export

* Among the countries referred to in this Annex, the following signed the Convention on November 8th, 1927: Germany, Austria, Belgium, Great Britain, etc., Egypt, France, Hungary, Italy, Japan, Luxemburg, Roumania and Czechoslovakia. [Footnote in the original.]

Hungary	Scrap iron and scrap of other metals and alloys	export
Italy	Scrap iron and scrap of other metals and alloys	export
Japan	Synthetic organic dyestuffs and colours or colouring matter containing them, as well as organic intermediate products used in the manufacture of such dyestuffs, colours and colouring matter	import
	Rice	import and export
Luxemburg	Scrap iron and scrap of other metals and alloys	export
Roumania	Scrap iron and scrap of other metals and alloys	export
	Used machinery for industrial installations	import
Czechoslovakia	Coal, coke, peat, lignite, briquettes	import and export
	Scrap iron and scrap of other metals and alloys	export

II. *Exceptions agreed to under Paragraph 2*

Egypt	Live-stock (exportation subject to licence)	export
	Eggs, during certain months of the year	export
	Organic fertilisers, including pigeon-manure, slaughter-house offal and dried blood	export
United States of America	Helium gas	export
Italy	Iron ores	export
	Corn	export
Roumania	Ores of iron, copper and manganese	export
	Crude oil	export

IN FAITH WHEREOF the delegates have signed the present Convention.

DONE at Geneva, the eighth day of November, one thousand nine hundred and twenty-seven, in a single copy, which shall be deposited

in the archives of the Secretariat of the League of Nations, and of which authenticated copies shall be delivered to all Members of the League of Nations and non-Member States represented at the Conference.

Germany

Dr. TRENDELENBURG

8-XI-27

United States of America

At the moment of signing the International Convention for the Abolition of Import and Export Prohibitions and Restrictions, and the Protocol to the Convention, I, the undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Switzerland, duly empowered to sign the said Convention and Protocol, declare, pursuant to instructions from my Government, that the United States, in accordance with Article 10 of the Convention, does not assume any obligation in respect of the Philippine Islands and that I sign the Convention and Protocol subject to the following reservations and conditions with respect to the United States of America:

(a) That prohibitions or restrictions designed to extend to exported products the regime established within the country in respect of the production of, trade in, and transport and consumption of such products in domestic commerce are not prohibited by the said Convention, provided, however, that such prohibitions or restrictions shall not be applied in such a manner as to constitute a means of arbitrary discrimination between foreign countries or a disguised restriction on international trade.

(b) That the said Convention affects neither the tariff systems nor the treaty-making methods of the participating countries nor the measures taken to ensure the application thereof, including measures to counteract dumping, bounties, subsidies, unfair methods or acts in foreign trade, undervaluation or discrimination.

HUGH R. WILSON

30-I-28

Austria

E. PFLÜGL

8-XI-27

Belgium

J. BRUNET

F. VAN LANGENHOVE

8-XI-27

Great Britain and Northern Ireland and those Parts of the British Empire which are not separate Members of the League of Nations

I declare that my signature does not include any of His Britannic Majesty's colonies, protectorates or territories under suzerainty or mandate.

S. J. CHAPMAN

8-XI-27

India

Under the terms of Article 10 I declare that my signature does not include the territories in India of any Prince or Chief under the suzerainty of His Majesty.

ATUL C. CHATTERJEE

26-IV-28

Bulgaria

PROF. GEORGES DANAÏLOW

8-XI-27

Chile

At the moment of signing the present Convention, the undersigned declares, on behalf of his Government :

(a) That he is fully convinced that Nos. 1 and 3 of Article 4 cannot be invoked by the other High Contracting Parties to prohibit or restrict the importation into their territories of Chilian nitrate of soda, principally employed in agriculture.

(b) That, in the Chilian Government's opinion, the Convention affects neither the tariff system nor the treaty-making methods of the participating countries, nor the measures taken to ensure their application, including the measures intended to counteract the effects of dumping.

E. VILLEGAS

14-VI-28

Denmark

Subject to reservation as regards Greenland.⁹⁴

J. CLAN

8-XI-27

Egypt

SADIK. E. HENEIN

8-XI-27

Estonia

C. R. PUSTA

30-I-28

Finland

RAFAEL ERICH

8-XI-27

⁹⁴ Translation made by the Secretariat of the League of Nations.

France

On signing the present Convention, France declares that by its acceptance it does not intend to assume any obligation in regard to any of its Colonies, Protectorates and territories under its suzerainty or mandate.

D. SERRUYS

8-XI-27

Hungary

BARANYAI ZOLTÁN

8-XI-27

Italy

A. DI NOLA

8-XI-27

Japan

In signing the International Convention for the Abolition of Import and Export Prohibitions and Restrictions we, the undersigned, declare that the provisions of Article 8 of the present Convention are in no way derogatory to the acts of the Japanese judicial authorities in the application of Japanese laws and decrees.⁹⁵

N. ITO

J. TSUSHIMA

8-XI-27

Latvia

CHARLES DUZMANS

31-I-28

Luxemburg

ALBERT CALMES

8-XI-27

Norway

GEORG WETTSTEIN

31-I-28

The Netherlands

POSTHUMA

DE GRAAFF

F. M. WIBAUT

8-XI-27

Poland

F. SOKAL

31-I-28

Portugal

FRANCISCO DE CALHEIROS E MENEZES

31-I-28

⁹⁵ Translation made by the Secretariat of the League of Nations.

Roumania

D. J. GHEORGHIU

CÉSAR POPESCU

Subject to ratification by the Roumanian Government and Parliament.⁹⁶

8-XI-27

Kingdom of the Serbs, Croats and Slovenes

CONST. FOTITCH

24-I-28

Siam

CHAROON

8-XI-27

Sweden

EINAR HENNINGS

2-XII-27

Switzerland

W. STUCKI

8-XI-27

Czechoslovakia

DR. IBL

8-XI-27

Turkey

M. KEMAL

14-V-28

PROTOCOL TO THE CONVENTION

At the moment of signing the Convention of to-day's date for the Abolition of Import and Export Prohibitions and Restrictions, the undersigned, duly authorised, have agreed on the following provisions, which are intended to ensure the application of the Convention:

SECTION I—AD ARTICLE 1

(a) The words "territories of the High Contracting Parties" employed in the Convention refer only to territories to which it is made applicable.

(b) Should the Customs territory of any High Contracting Party include territories which are not placed under his sovereignty, these territories are also to be regarded as "territories" within the meaning of the Convention.

(c) In view of the fact that within or immediately adjacent to the territory of India there are areas or enclaves, small in extent and population in comparison with such territory, and that these areas

⁹⁶ Translation made by the Secretariat of the League of Nations.

or enclaves form detached portions or settlements of other parent States, and that it is impracticable for administrative reasons to apply to them the provisions of the Convention, it is agreed that these provisions shall not apply to them.

India, however, will apply as regards the areas or enclaves in question a regime which will respect the principles of the Convention and facilitate imports and exports as far as practicable, and will refrain from imposing in regard to them any new measures of prohibition or restriction which would not be authorised by the provisions of the Convention, unless there should be no other means of ensuring the collection of customs and excise duties.

SECTION II—AD ARTICLE 2

As regards the application of Article 2, the obligation accepted by Canada binds only the Federal Government and not the Provincial Governments, which, under the Constitution, possess the power of prohibiting or restricting the importation and exportation of certain products into or from their territories.

SECTION III—AD ARTICLE 4

(a) *ad No. 4.*

The protection of animals and plants against disease also refers to measures taken to preserve them from degeneration or extinction and to measures taken against harmful seeds, plants, parasites and animals.

(b) *ad No. 7.*

The High Contracting Parties, although they have refrained from making any reference to measures relating to "standard" products and definitions of products, declare that this paragraph must be interpreted as in no way interfering with the practice followed by certain countries of subjecting the exportation of their products to certain conditions as to quality with the object of preserving the reputation of those products and at the same time of offering a guarantee to the foreign purchaser. They declare, on the other hand, that they interpret the paragraph in question as prohibiting recourse to any system of classifying or defining products which is employed as an indirect means of restricting the importation of foreign products or of subjecting importation to a regime of unfair discrimination.

(c) *ad No. 7.*

The High Contracting Parties declare that prohibitions or restrictions the sole object of which is either to prevent imported goods

from escaping the payment of the customs duties applicable thereto, or in exceptional cases to prevent the importation of certain goods which would reduce the revenue from the duties imposed on certain other goods, may only be established or maintained, if no other effective means exist of securing the said revenue.

(d) *ad No. 7.*

The High Contracting Parties declare that if, on account of the constitution of certain States and the different methods of internal control which they employ, it should prove impossible to secure complete similarity of treatment between native and imported products, any such difference in treatment must not have the object or effect of establishing an unfair discrimination against the latter.

(e) *ad No. 8.*

The High Contracting Parties declare that they have solely in view monopolies each of which applies only to one or more specific articles.

SECTION IV—AD ARTICLE 6

(a) *ad No. 1.*

The High Contracting Parties who have made the reservations referred to in paragraph 1 of Article 6 declare that they do not regard their acceptance of the provisions of Article 18, paragraph 3, as an undertaking on their part that the circumstances which compelled them to make these reservations will have ceased to exist at the end of three years, but as entitling any High Contracting Party to resume his freedom of action if, in the event of these circumstances not having changed within the said period, he considered that his economic conditions were detrimentally affected by the maintenance of any of the prohibitions or restrictions to which the aforesaid reservations refer.

(b) *ad No. 2.*

By allowing the exceptions referred to in Article 6, paragraph 2, the High Contracting Parties have not intended to give perpetual recognition to their existence, but merely to indicate that the necessity of abolishing these exceptions is not so imperative, in view of their slight importance in international trade.

(c) *ad No. 2.*

The High Contracting Parties declare that, by accepting in the case of Roumania, in consideration of her exceptional situation of fact and of law, the reservation concerning crude oil in accordance with Article 6, paragraph 2, they have not in any way agreed to measures of prohibition or restriction for this product, which they regard as being of very great importance for the world market. The High Contracting

Parties feel confident that, as soon as circumstances allow her to do so, Roumania herself, acting in the spirit of the preceding paragraph (b) above, will abolish this prohibition, and, in the meantime, that she will take into account the interests of the neighbouring contracting countries.

The Roumanian Delegation fully associates itself with this declaration.

(d) *ad No. 4.*

(i) *Scope of the Provision*

As regards paragraph 4, it is understood that any claims for exceptions which may be put forward after the date of the present Convention shall refer only to prohibitions or restrictions in force on that same date.

(ii) *Procedure*

1. Any High Contracting Party may make known by a communication addressed to the Secretary-General of the League of Nations any prohibitions or restrictions which he desires to be able to maintain in virtue of paragraphs 1 and 2 of Article 6. Such communication must reach the Secretary-General before February 1st, 1928. It shall state the conditions, if any, on which the High Contracting Party in question would be prepared to abandon such prohibitions or restrictions.

2. As soon as possible after February 1st, 1928, the Secretary-General of the League of Nations shall notify the High Contracting Parties of all applications which he has received under the preceding paragraph.

3. Any High Contracting Party wishing to make observations on any applications so communicated may forward such observations to the Secretary-General of the League of Nations not later than May 1st, 1928. As soon as possible after that date, the Secretary-General will inform the High Contracting Parties of all observations received.

4. Any applications and observations made by the High Contracting Parties shall be examined at the meeting provided for in Article 17 of the Convention.

SECTION V—AD ARTICLE 7

The expression "trade of the High Contracting Parties" signifies the trade of their territories to which the Convention applies.

SECTION VI

Prohibitions or restrictions applying to prison made goods are not within the scope of the Convention.

SECTION VII

Should any prohibitions or restrictions be imposed within the limits laid down by the Convention, the High Contracting Parties shall strictly adhere to the following provisions as regards licences:

(a) The conditions to be fulfilled and the formalities to be observed in order to obtain licences shall be brought immediately in the clearest and most definite form to the notice of the public;

(b) The method of issue of the certificates of licences shall be as simple and stable as possible;

(c) The examination of applications and the issue of licences to the applicants shall be carried out with the least possible delay;

(d) The system or [of] issuing licenses shall be such as to prevent the traffic in licences. With this object, licences, when issued to individuals, shall state the name of the holder and shall not be capable of being used by any other person.

As regards the allocation of quotas, the High Contracting Parties, without pronouncing upon the method to be adopted, consider that an equitable allocation of such quotas is one of the essential conditions for the equitable treatment of international trade.

IN FAITH WHEREOF the Plenipotentiaries have signed the present Protocol.

DONE at Geneva the eighth day of November, one thousand nine hundred and twenty-seven, in a single copy, which shall be deposited in the archives of the Secretariat of the League of Nations, and of which authenticated copies shall be delivered to all Members of the League of Nations and non-Member States represented at the Conference.

Germany

DR. TRENDELENBURG

United States of America

HUGH R. WILSON

Austria

E. PFLÜGL

Belgium

J. BRUNET

F. VAN LANGENHOVE

Great Britain and Northern Ireland, and those Parts of the British Empire which are not separate Members of the League of Nations

I declare that my signature does not include any of His Britannic Majesty's colonies, protectorates or territories under suzerainty or mandate.

S. J. CHAPMAN

India

Under the terms of Article 10 of the Convention I declare that my signature does not include the territories in India of any Prince or Chief under Suzerainty of His Majesty

ATUL C. CHATTERJEE

Bulgaria

PROF. GEORGES DANAÏLOW

Chile

E. VILLEGAS

Denmark

Subject to reservation as regards Greenland.⁹⁷

J. CLAN

Egypt

SADIK. E. HENEIN

Estonia

C. R. PUSTA

Finland

RAFAEL ERICH

France

Subject to the reservations made on signing the Convention.⁹⁷

D. SERRUYS

Hungary

BARANYAI ZOLTÁN

Italy

A. DI NOLA

Japan

Subject to the reservations made on signing the Convention.⁹⁷

N. ITO

J. TSUSHIMA

Latvia

CHARLES DUZMANS

Luxemburg

ALBERT CALMES

Norway

GEORG WETTSTEIN

The Netherlands

POSTHUMA

DE GRAAFF

F. M. WIBAUT

Poland

F. SOKAL

⁹⁷ Translation made by the Secretariat of the League of Nations.

Portugal

FRANCISCO DE CALHEIROS E MENEZES

Roumania

D. J. GHEORGHIU

CÉSAR POPESCU

Subject to ratification by the Roumanian Government and Parliament.⁹⁸*Kingdom of the Serbs, Croats and Slovenes*

CONST. FOTITCH

Siam

CHIARON

Sweden

EINAR HENNINGS

Switzerland

W. STUCKI

Czechoslovakia

DR. IBL

Turkey

M. KEMAL

ANNEXED DECLARATION

The delegations of France, Greece, Hungary, Italy, Portugal, the Kingdom of the Serbs, Croats and Slovenes and Switzerland, present at the International Conference for the Abolition of Import and Export Prohibitions and Restrictions, desire to place it on record that, though they have abstained, in the desire not to place any obstacle in the way of the success of the Conference and not to raise between the participating States a controversy on a question of principle which could lead to no definite conclusion, they are nevertheless fully convinced that the prohibition of viticultural products cannot be justified on the ground of the provisions of Article 4, No. 4, of the Convention.

Geneva, November 8th, 1927.

France

D. SERRUYS

Greece

VASSILI DENDRAMIS

Hungary

BARANYAI ZOLTÁN

Italy

A. DI NOLA

Portugal

F. DE CALHEIROS E MENEZES

Kingdom of the Serbs,

CONST. FOTITCH

*Croats and Slovenes**Switzerland*

W. STUCKI

Chile

The Government of the Chilian Republic accedes to the Declaration annexed to the Convention and, like the delegations of France, Greece, Hungary, Italy, Portugal, the Kingdom of the Serbs, Croats and Slovenes and Switzerland, it is convinced that the prohibition of viticultural products cannot be justified on the ground of the provisions of Article 4, No. 4, of the Convention.⁹⁹

E. VILLEGAS

⁹⁸ Translation made by the Secretariat of the League of Nations.

SUPPLEMENTARY AGREEMENT

TO THE CONVENTION OF NOVEMBER 8TH, 1927, FOR THE ABOLITION OF
IMPORT AND EXPORT PROHIBITIONS AND RESTRICTIONS

The President of the German Reich; the President of the United States of America; the President of the Austrian Federal Republic; His Majesty the King of the Belgians; His Majesty the King of Great Britain and Ireland and of the British Dominions Beyond the Seas, Emperor of India; His Majesty the King of the Bulgarians; the President of the Chilian Republic; His Majesty the King of Denmark; His Majesty the King of Egypt; the President of the Estonian Republic; the President of the Republic of Finland; the President of the French Republic; His Serene Highness the Governor of Hungary; His Majesty the King of Italy; His Majesty the Emperor of Japan; the President of the Latvian Republic; Her Royal Highness the Grand Duchess of Luxemburg; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; the President of the Polish Republic; the President of the Portuguese Republic; His Majesty the King of Roumania; His Majesty the King of the Serbs, Croats and Slovenes; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; the President of the Czechoslovak Republic; the President of the Turkish Republic.

Having regard to the Convention signed at Geneva on November 8th, 1927, for the Abolition of Import and Export Prohibitions and Restrictions;

Having regard to the provisions of Article 17 of the said Convention;

Have appointed as their Plenipotentiaries for the meeting provided for in the said Article, namely:

[Here follows list of names of plenipotentiaries.]

Who, having communicated their full powers, found in good and due form, have agreed on the following provisions, intended to supplement the provisions of the aforesaid Convention, of which they shall form an integral part.

ARTICLE A

The Annex to Article 6 of the Convention of November 8th, 1927, is supplemented as follows for the benefit of the countries named hereafter:

Exceptions agreed to under Paragraph 1

Bulgaria	Rose trees and roots and shoots . .	Export
Chile	Scrap iron and scrap zinc	Export
	Mares	Export

Czechoslovakia	Hop shoots	Export
Portugal	Fine wool	Export
	Cork in the raw state	Export
Sweden	Scrap iron	Export

Exceptions agreed to under Paragraph 2

Czechoslovakia	Quartzite	Export
Estonia	Platinum, precious stones, pearls and corals (in a rough state or finished, loose or mounted) . . .	Export
Portugal	Pine resin	Export
United States	Helium gas	Export

ARTICLE B

The High Contracting Parties agree that, in the event of the Agreements concluded on this day's date relating to the Exportation of Hides and Skins and Bones not coming into force in default of the necessary ratifications, each of them shall be authorised to submit subsequent requests for exceptions which they were entitled to submit under the provisions of Article 6 of the Convention and the annexed Protocol, and which they have not submitted in view of the aforesaid Agreements.

Such requests for exception shall be addressed to the Secretary-General of the League of Nations before September 30th, 1929, and shall be notified by him to the High Contracting Parties before October 31st, 1929.

The High Contracting Parties undertake to meet without delay upon receiving an invitation from the Secretary-General in order to examine the requests for exceptions referred to above.

ARTICLE C

The High Contracting Parties agree that the Convention in order to be brought into force, must have secured either ratification as provided for in Article 15 or accession as provided for in Article 16 of the said Convention on behalf of at least eighteen Members of the League of Nations or non-Member States.

The ratifications must be deposited before September 30th, 1929.

Each of the High Contracting Parties shall have the right to inform the Secretary-General of the League of Nations at the moment of the deposit of his ratification or of the notification of his accession that he makes the entry into force of the Convention, in so far as he is concerned, conditional on ratification or accession on behalf of certain

countries, without, however, being entitled to specify countries other than those named below :

Austria	Poland
Czechoslovakia	Roumania
France	Kingdom of the Serbs, Croats and Slovenes
Germany	Switzerland
Great Britain	Turkey
Hungary	United States of America
Italy	
Japan	

The Secretary-General of the League of Nations shall immediately inform each of the High Contracting Parties of each ratification or accession received and of any observations by which it may be accompanied in conformity with the preceding paragraph.

On October 31st, 1929, the Secretary-General of the League of Nations shall notify all the Members of the League and non-Member States on behalf of which the Convention has been signed or acceded to under Article 16 of the Convention of the ratifications deposited and accessions notified before September 30th, 1929.

ARTICLE D

If it appears from the communication of the Secretary-General of the League of Nations, which is referred to in the last paragraph of the preceding Article, that the conditions required in virtue of the first three paragraphs of the said Article and of the annexed Protocol have been fulfilled by September 30th, 1929, the Convention shall come into force on January 1st, 1930.

In the contrary event, the procedure laid down in the last paragraph of Article 17 of the Convention shall be followed.

IN FAITH WHEREOF the above-mentioned Plenipotentiaries have signed the present Agreement.

DONE at Geneva on the eleventh day of July, one thousand nine hundred and twenty-eight, in a single copy, which shall be deposited in the archives of the Secretariat of the League of Nations; certified true copies shall be forwarded to all the Members of the League of Nations and all the non-Member States represented at the Conference.

Germany

Dr. ERNST TRENDELENBURG

United States of America

HUGH R. WILSON

Austria

Dr. RICHARD SCHULLER

Belgium

J. BRUNET

F. VAN LANGENHOVE

Great Britain and Northern Ireland and all parts of the British Empire which are not separate Members of the League of Nations

I declare that my signature does not include any of His Britannic Majesty's Colonies, Protectorates or territories under suzerainty or mandate.

S. J. CHAPMAN

India

H. A. F. LINDSAY

Bulgaria

On signing the present Supplementary Agreement, Bulgaria declares that it shall be ratified and put into force as soon as the national currency shall be re-established in gold.²

D. MIKOFF

Chile

TOMÁS RAMÍREZ FRIAS

Denmark

J. CLAN

WILLIAM BORBERG

Egypt

SADIK E. HENEIN

Estonia

A. SCHMIDT

Finland

RUDOLF HOLSTI

GUNNAR KIHLMAN

France

On signing the present Supplementary Agreement France declares that by its acceptance it does not intend to assume any obligation in regard to any of its Colonies, Protectorates and territories under its suzerainty or mandate.²

D. SERRUYS

Hungary

NICKL

Italy

A. DI NOLA

P. TROISE

Japan

ITO

J. TSUSHIMA

² Translation made by the Secretariat of the League of Nations.

Latvia

CHARLES DUZMANS

Luxemburg

ALBERT CALMES

Norway

GUNNAR JAHN

Netherlands

POSTHUMA F. M. WIBAUT S. DE GRAAFF

Poland

FRANÇOIS DOLEZAL

Portugal

A. D'OLIVEIRA F. DE CALHEIROS E MENEZES

Roumania

ANTONIADE D. T. GHEORGHIU CESAR POPESCO

Kingdom of the Serbs, Croats and Slovenes

CONST. FOTITCH GEORGES CURCIN

Siam

CHAROON

Sweden

EINAR MODIG

Switzerland

W. STUCKI

Czechoslovakia

IBL

*Turkey*Subject to reservation as regards Article B.³

HASSAN

PROTOCOL TO THE SUPPLEMENTARY AGREEMENT

At the moment of proceeding to the signature of the Supplementary Agreement to the International Convention for the Abolition of Import and Export Prohibitions and Restrictions signed on this day's date, the undersigned, duly authorised, have agreed on the following provisions, which are intended to ensure the application of the Supplementary Agreement:

SECTION I

The High Contracting Parties declare that, in the text of the Supplementary Agreement of this day's date, the expression "the Con-

³ Translation made by the Secretariat of the League of Nations.

vention" shall be taken to mean both the International Convention for the Abolition of Import and Export Prohibitions and Restrictions dated November 8th, 1927, and the Supplementary Agreement of this day's date.

SECTION II

Ad Article A.

(a) Cork in the raw state, in respect of which an exception has been allowed for Portugal, does not include scrap cork, or cork in agglomerated form, in shavings, or in sheets.

(b) Although the exceptions set out in Article A, like those appearing in the Annex to Article 6 of the Convention, have been allowed on the condition that the countries benefiting thereby shall sign the present Supplementary Agreement on the day of the general signature, it has appeared equitable to grant an extension of time up to August 31st, 1928, inclusive, to Bulgaria, Portugal and the United States of America.

(c) As regards the exception of hop shoots which has been agreed to in favour of Czechoslovakia under paragraph 1 of Article 6 of the Convention, the High Contracting Parties declare that their consent has been given in return for the written undertaking entered into by the Czechoslovak delegation to allow the free export of this product to all countries which now or in the future guarantee Czechoslovakia by legislative or contractual measures the protection of the appellation of origin of Czechoslovak hops.

SECTION III

Ad Article B.

The High Contracting Parties agree to recognise in the case of Italy the application of the provision of the Protocol to the International Agreement relating to the Exportation of Bones (Section 1, *ad Article 1 (a)*), in the event of the said Agreement coming into force.

SECTION IV

Ad Article C.

(a) Owing to the position of the United States in consequence of a short Session of Congress in the year 1928-29, the High Contracting Parties agree that, if the ratification of the United States has been asked for under paragraph 3 of Article C and has not been deposited by September 30th, 1929, the Convention shall come into force on January 1st, 1930, provided that all the other countries on which the entry into force of the Convention depends and the total number of which would in this case be reduced to seventeen shall have notified the Secretary-General of the League of Nations of their ratifications or accessions before September 30th, 1929, and provided no objection

is raised before November 15th, 1929, by any of the countries which, at the time of the deposit of their ratification or accession, made the entry into force of the Convention, in so far as they were concerned conditional upon the ratification or accession of the United States. If any objection is raised, the last paragraph of Article 17 of the Convention shall apply.

(b) The High Contracting Parties declare that, in drawing up the list of countries which appears in Article C, they have been chiefly guided by the interdependence of certain interests emphasised in the course of the proceedings of the Conference.

They have thought it unnecessary to mention countries the inclusion of which would be justified only by the importance of economic interests or considerations of geographical situation.

If they have not mentioned certain countries, it is because those countries at present impose no prohibitions of any importance. The High Contracting Parties think they can rely upon their ratification or adhesion.

IN FAITH WHEREOF the above-mentioned plenipotentiaries have signed the present Protocol.

DONE at Geneva on the eleventh day of July, one thousand nine hundred and twenty-eight, in a single copy, which shall be deposited in the archives of the Secretariat of the League of Nations; certified true copies shall be forwarded to all the Members of the League of Nations and to all the non-Member States represented at the Conference.

Germany

DR. ERNST TRENDELENBURG

United States of America

HUGH R. WILSON

Austria

DR. RICHARD SCHULLER

Belgium

J. BRUNET

F. VAN LANGENHOVE

Great Britain and Northern Ireland and all parts of the British Empire which are not separate Members of the League of Nations

I declare that my signature does not include any of His Britannic Majesty's Colonies, Protectorates or territories under suzerainty or mandate.

S. J. CHAPMAN

India

H. A. F. LINDSAY

Bulgaria

D. MIKOFF

Subject to the reservation made on signing the Supplementary Agreement.⁵

Chile

TOMÁS RAMIREZ FRIAS

Denmark

J. CLAN

WILLIAM BORBERG

Egypt

SADIK E. HENEIN

Estonia

A. SCHMIDT

Finland

RUDOLF HOLSTI

GUNNAR KIHLMAN

France

Subject to the reservations made on signing the Supplementary Agreement.⁵

D. SERRUYS

Hungary

NICKL

Italy

A. DI NOLA

P. TROISE

Japan

N. ITO

J. TSUSHIMA

Latvia

CHARLES DUZMANS

Luxemburg

ALBERT CALMES

Norway

GUNNAR JAHN

Netherlands

POSTHUMA

F. M. WIBAUT

S. DE GRAAFF

Poland

FRANÇOIS DOLEZAL

⁵ Translation made by the Secretariat of the League of Nations.

Portugal

A. D'OLIVEIRA

F. DE CALHEIROS E MENEZES

Roumania

ANTONIADE

D. T. GHEORGHIU

CESAR POPESCO

Kingdom of the Serbs, Croats and Slovenes

CONST. FOTITCH

GEORGES CURCIN

Siam

CHAROON

Sweden

EINAR MODIG

Switzerland

W. STUCKI

Czechoslovakia

IBL

*Turkey*Subject to reservation as regards Article B.⁶

HASSAN

ANNEXED DECLARATION

The Austrian, German and Hungarian delegations, in accepting in favour of Czechoslovakia the exception of *quartzite* under paragraph 2 of Article 6 of the Convention, declare that their consent has only been given in return for an undertaking on the part of Czechoslovakia to maintain, as long as the Convention remains in force, the export quotas and conditions provided for in special treaties or arrangements.

Germany

DR. ERNST TRENDELENBURG

Austria

DR. RICHARD SCHULLER

Hungary

NICKL

Czechoslovakia

IBL

[The Senate resolution of September 19, 1929, giving advice and consent to the ratification of the convention and protocol of November 8, 1927 and the supplementary agreement and protocol of July 11, 1928, contained the following reservation:

“It is understood that the provision of Section VI of the Protocol to the Convention, excepting from the scope of the Convention prohibitions or restrictions applying to prison made goods, includes goods the product of forced or slave labor however employed.”]

⁶ Translation made by the Secretariat of the League of Nations.

SECOND INTERNATIONAL CONFERENCE FOR THE ABOLITION OF
IMPORT AND EXPORT PROHIBITIONS AND RESTRICTIONS, GENEVA,
JULY 3 TO 19, 1928⁷

560.M2/145

The Minister in Switzerland (Wilson) to the Secretary of State

[Extracts]

No. 294

BERNE, *February 16, 1928.*

[Received March 7.]

SIR: With reference to the International Convention for the Abolition of Import and Export Prohibitions and Restrictions and particularly to the Department's telegram No. 13 of January 31, 6 p. m.,⁸ in which I was instructed to submit detailed criticism of action taken by the signatory states since November 8th, I have the honor to transmit herewith one copy of League of Nations document C. I. A. P. 23, issued February 10, 1928, entitled "Exceptions Claimed by Various Governments in Virtue of Article 6".⁹ . . .

. . . In general terms, the Convention will only accomplish its purpose if it is clear and definite and cannot do so if the nations do not know what to expect from their neighbors during the life of the Convention.

(10) In relation to the letter from France on page 10, we come here to the question which may be of more importance to us than any other raised under the Convention. The Department will recollect that no state requested reservations either under article 6 or elsewhere relative to restrictions and prohibitions concerning the import of films and that this letter, dated January 27th, raises for the first time the film question. I am informed in the Secretariat that neither under this Convention nor in any other has the Economic Committee the power to pass on the meaning of a treaty and that the French letter, if they desire to maintain it, must be debated in the July conference.

⁷ For official records of this Conference, see League of Nations, *Second International Conference for the Abolition of Import and Export Prohibitions and Restrictions, etc.: Proceedings of the Conference* (C.611.M.187.1928.II). For correspondence concerning the First Conference, see *Foreign Relations, 1927*, vol. I, pp. 246 ff. The texts of the convention and protocol together with the supplementary agreement and protocol which resulted from these two Conferences are printed pp. 336 ff. For further correspondence concerning French regulations regarding motion picture films, see vol. II, pp. 844 ff.

⁸ Telegram not printed.

⁹ Only the letter from France is reprinted.

I have not in my possession full data concerning the restrictive measures which the French Government either has made effective or contemplates and I cannot therefore hold views of value concerning the importance of this letter to our trade. I have requested Dr. Lyon, Commercial Attaché, to communicate with the Commercial Attaché attached to the Embassy at Paris and to request him to furnish us with material both as to the restrictive measures now in force and as to those contemplated by the French Government. On receipt of such material I will supplement this despatch.¹⁰

(11) In the course of the debates in the sessions of the Diplomatic Conference, the question was raised as to what procedure should be followed in the July conference relative to voting on reservations submitted by states between November 8th and February 1st. No clear cut decision was reached and I have subsequently talked over the matter with interested members of the Secretariat. They themselves are much troubled by the situation, pointing out that as matters now stand, any state which votes against a reservation introduced by another state, if that reservation is accepted, will be free to withdraw from the Convention. This would naturally create great uncertainty and cause many states to delay ratification awaiting action by their neighbors. Since I have discussed this matter with the Secretariat, the Legal Section has been instructed to consider the situation thoroughly and to give advice as to what should be proposed. I shall not fail to communicate further on this point as soon as I hear the result of the deliberations of the Section.

(12) Finally, I venture to call the Department's attention to the fact that both Austria and Germany in formal communications, and other states in the course of the plenary sessions, declared that they must hold themselves free to request certain exceptions provided such exceptions were requested and obtained by other states. It will be, I believe, essential for our representation to bear in mind this very important point, namely, that by granting an exception to one state, even though it looks of very little importance, the door is opened to a demand by other states for the granting of the same exception which might have great economic importance. It would seem advisable, therefore, to fight the number of exceptions as far as possible and to limit them to those clearly of the same nature as those already granted under the Convention previous to the signature of November 8th.

I have [etc.]

HUGH R. WILSON

¹⁰ See the Minister's despatch No. 317, Feb. 29, p. 368.

[Enclosure]

LETTER FOR THE SECRETARY-GENERAL [OF THE LEAGUE OF NATIONS]
FROM THE FRENCH MINISTRY OF FOREIGN AFFAIRS ¹¹PARIS, *January 27, 1928.*

In view of the difficulties at present being experienced by the cinematograph industry in France, the French Government is considering the adoption of certain restrictive measures which will apply equally to French and foreign films.

Although these measures cannot be described as prohibitions within the strict meaning of the Convention of November 8th last, the French Government has felt bound to conform with the procedure laid down in Section IV of the Protocol of this Convention by notifying you before February 1st of its intentions.

Since these restrictive measures may to some extent hamper international and national trade, the Government desires to learn, either from the Economic Committee which is to meet on March 30th, 1928, or under the procedure laid down in Article 17 of the Convention for the Abolition of Import and Export Prohibitions and Restrictions, whether the proposed measures, which are entirely similar to those in force in certain other signatory states or adopted by certain of these States since the signature of the above-mentioned instrument, are compatible with the provisions of the Convention.

For the Minister for Foreign Affairs:

CORBIN, *Minister Plenipotentiary,*

Director of the Political and Commercial Department

560.M2/151

The Minister in Switzerland (Wilson) to the Secretary of State

No. 317

BERNE, *February 29, 1928.*

L. N. No. 1079

[Received March 20.]

SIR: I have the honor to refer to my despatch No. 294 of February 16, 1928, relative to the International Convention for the Abolition of Import and Export Prohibitions and Restrictions and particularly to item No. 10, appearing on page 7 of that despatch, concerning a letter which the French Government had sent to the Secretariat of the League of Nations relative to film restrictions.

Through the courtesy of the Commercial Attaché in Paris I am now in receipt of a copy of the law of February 18th, published in the Official Journal of the French Republic on February 19th, relative to the control of cinematograph films. Presumably both the State De-

¹¹ Extract from League of Nations document C. I. A. P. 23, p. 10.

partment representatives in Paris and those of the Department of Commerce have forwarded this law with appropriate observations and I shall therefore merely consider it in its relation to the treaty in question and to the discussions which may take place regarding the French letter in the Conference to be held in July next.

The text of the law itself does not appear to violate the terms of the convention since no provision is made for the prohibition or restriction of importation. The law appears to set up merely a censorship under a body which will take into consideration "the sum total of the national interests in question and especially that of the conservation of national customs and traditions. Also when it is a question of foreign films consideration shall be given to the ease with which, in the separate countries of origin, French films may be acquired." Obviously the Powers given to the Commission are very broad and presumably under this law foreign films might be refused the visa necessary for exhibition. This might be done arbitrarily and for the sake of protecting the French film industry. Only experience will show the result of the institution of the censorship.

If the subject comes up for debate in the July meeting, the Department may desire our representative to take an occasion to call attention to the first paragraph of article 5 of the Final Act of the Convention,¹² especially to those words "or hindrances of any other kind which would replace those that it is the aim of the Convention to remove." Admission might be made frankly that while this and similar laws do not violate technically the convention, they might open the door to a violation of the spirit of the convention should the authorities administering them feel so inclined. That the United States Government, however, in view of the aspirations expressed in article 5 above cited, is confident that such laws will not be used for purposes which would be a violation in effect if not in law of the convention.

I have [etc.]

HUGH R. WILSON

560.M3/10

The Chargé in Switzerland (Moffat) to the Secretary of State

No. 393

BERNE, April 13, 1928.

L. N. No. 1117

[Received April 28.]

SIR: Referring to my telegram No. 35, 11 a. m. of today's date,¹³ I have the honor to transmit herewith a communication addressed

¹² For text of the final act, see League of Nations, *International Conference for the Abolition of Import and Export Prohibitions and Restrictions, etc.: Proceedings of the Conference* (C.21.M.12.1928.11), pp. 29, 45.

¹³ Not printed.

to you on April 11 by the Deputy Secretary-General of the League of Nations, announcing that the International Conference for the Abolition of Import and Export Prohibitions and Restrictions will reconvene under the Presidency of Mr. Colijn on July 3, 1928, for the purpose of taking decisions with regard to the requests for exceptions submitted in accordance with Article 6 of the Convention of November 8, 1927, and the necessary conditions for putting the Convention into force. The communication closes with the request that as soon as convenient the composition of the American delegation be transmitted to the Secretariat.

I have [etc.]

PIERREPONT MOFFAT

[Enclosure]

The Deputy Secretary General of the League of Nations (Dufour-Feronce) to the Secretary of State

C. L. 68.1928.II

GENEVA, April 11, 1928.

SIR: By the terms of Article 17 of the International Convention for the Abolition of Import and Export Prohibitions and Restrictions, of which I had the honour to forward you a certified true copy in my letter of November 19th 1927, I have to summon a meeting to be held between June 15th and July 15th 1928, of the duly accredited representatives of the States on whose behalf the Convention will have been signed by June 15th 1928. This meeting will have to take decisions with regard to:

a) the requests for exceptions submitted by certain States in accordance with Article 6 of the Convention. Copies of these requests were forwarded to you with my circular letter 27.1928.II. of February 13th 1928;¹⁴

b) the necessary conditions for the putting into force of the Convention.

In agreement with M. Colijn, President of the November 1927 Conference on prohibitions, who has been invited by the Council to preside also over the proposed meeting, I have the honour to inform you that I have fixed the date for July 3rd 1928, at Geneva.

I should be grateful if you would be good enough to let me know as soon as convenient the composition of the delegation which your Government will send to the meeting on July 3rd.

I have [etc.]

ALBERT DUFOUR-FERONCE

¹⁴ Circular letter not printed.

560.M2/145 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, April 27, 1928—6 p. m.

47. Your despatch 294, February 16. Please present before May 1 the following communication to the Secretary General of the League of Nations:

“With reference to the communication of February 13 addressed to the Secretary of State of the United States by the Acting Secretary General,¹⁵ I have been instructed to present the following observations of the Government of the United States in regard to the communications received by the Secretary General pursuant to the terms of paragraph (ii) of sub-section (d) of Section IV of the Protocol to the Convention for the Abolition of Import and Export Prohibitions and Restrictions.¹⁶

The Government of the United States is greatly disappointed to note the number and extent of the exceptions requested by the signatory states, and considers that such extensive exceptions are clearly contrary to the spirit and purpose of the convention. Acceptance of the exceptions claimed would detract very materially from its usefulness, if not tend to render it nugatory. Furthermore, the Government of the United States regrets to find in certain of the declarations and observations presented a disposition to prepare the way for subsequently claiming additional exceptions.

The observations and communications of a number of governments indicate a tendency to claim for their own part the right to make exceptions that may be admitted in favor of other governments. Accordingly, exceptions specified by particular countries have to be considered not merely in relation to the foreign commerce of those countries in the articles in question, but rather in the light of the possible effect of the general application of such exceptions by other countries as well.

The Government of the United States is strongly of the opinion that every effort should be made to dispense with exceptions, and in principle is not disposed to agree to exceptions under the terms of Article 6 of the convention unless it clearly appears that such exceptions would not be contrary to the spirit and purpose of the convention. The Government of the United States therefore reserves the right to object at the appropriate time to any or all of the exceptions specified or desired by the signatory states.”

Telegraph briefly and report fully by mail concerning the observations submitted by the several countries.

KELLOGG

¹⁵ Not printed.

¹⁶ For protocol, see p. 350.

560.M3/15 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, May 25, 1928—6 p. m.

57. Your despatch No. 393, April 13, 1928. Please communicate the following to the Secretary General of the League of Nations in the usual informal manner :

"The Secretary of State of the United States of America has received, with appreciation, the note of the Deputy Secretary General of the League of Nations, dated April 11, 1928,¹⁷ in which he was good enough to inform the American Government that the meeting, provided for under Article 17 of the International Convention for the Abolition of Import and Export Prohibitions and Restrictions, would take place on July 3, 1928, at Geneva, and in which he requested that he be advised, as soon as convenient, of the composition of the delegation which the Government of the United States will send to this meeting.

In reply the Secretary of State takes pleasure in stating that the President has appointed Mr. Hugh Wilson, American Minister to Switzerland, to attend the meeting in question as the representative of the United States. Mr. Wilson will be assisted by one or more advisers whose names will be communicated to the Secretariat as soon as possible."

The Department expects to appoint Bidwell, Lyon, and Moffat as your assistants. Please instruct Tuck to act again as Secretary.

Full instructions will be transmitted by pouch.

KELLOGG

560.M3/29 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, June 5, 1928—3 p. m.

[Received 4:10 p. m.]

57. My despatch 317, February 29, private letter to Young May 11 and 435, May 15.¹⁸

There are increasing signs of tendency on the part of other states to await result of July conference as applied to French letter of January 27 concerning films¹⁹ and to base their action thereon. I respectfully suggest that you may desire to instruct me to keep our record clear by some statement in July conference, possibly to include following:

That French letter states Government does not believe action violates convention :

That we hope this is so but that powers of censor board are so large that only experience can show what application will be;

¹⁷ *Ante*, p. 370.¹⁸ Letter to Young and despatch No. 435 not printed.¹⁹ *Ante*, p. 368.

That we fear a violation of spirit if not of letter ;

That conference has not material and time for detailed study and therefore is not competent to pass on what constitutes a technical violation but that we do not wish our silence to be construed as acquiescence in French plan or in other plans which may follow the French lead ;

That we therefore reserve our right of diplomatic or arbitral recourse in the future if the need arises.

WILSON

560.M3/18

The Secretary of State to the Minister in Switzerland (Wilson)

No. 237

WASHINGTON, June 15, 1928.

SIR: The President has instructed me to inform you of his desire that you represent the Government of the United States at the forthcoming Conference to be held at Geneva beginning July 3, 1928, to consider matters pertaining to the International Convention for the Abolition of Import and Export Prohibitions and Restrictions. You will be assisted by Charles E. Lyon, Commercial Attaché at Berne; Percy W. Bidwell, one of the European representatives of the Tariff Commission; and Mr. J. P. Moffat of the Legation. Mr. S. P. Tuck, American Consul at Geneva, will serve as Secretary of the delegation.

In connection with this Conference, reference is made to the Department's instruction of October 6, 1927,²⁰ and to subsequent correspondence on this general subject.

The Conference is convened pursuant to the provisions of Article 17 of the Convention, which reads as follows:

[Here follows the text of article 17, printed on page 343.]

In this same connection, reference is made to Article 6, which reads as follows:

[Here follows the text of article 6, printed on page 339.]

The pertinent part of the Protocol to the Convention is subparagraph (ii), "Procedure", of paragraph (d) of Section IV, which reads as follows:

[Here follows text, printed on page 353.]

The exceptions claimed by the several governments and other observations in the premises are set forth in document C. I. A. P. 23 of February 10, 1928, and document C. I. A. P. 25 of May 7, 1928.

Examination of the subject matter of the forthcoming Conference indicates that the points of interest to the Government of the United States call for the following comment and instructions:

You will probably find it advisable at the beginning of the Conference to make for the record a formal statement of the general position

²⁰ *Foreign Relations*, 1927, vol. I. p. 254.

of this Government. Such a statement might set forth *inter alia* the sincere regret felt by this Government at the tendency to claim exceptions contrary to the spirit and purpose of the Convention, and could reiterate and if necessary expand upon the considerations set forth in your communication of April 28, 1928, to the Secretary General.²²

It is obvious that discussions of the particular exceptions claimed by the various States may easily become unduly complicated and technical unless such exceptions are tested by the application of general criteria. The first criterion which might logically be applied is whether certain exceptions claimed are not already covered under the terms of the convention, and in particular under Articles 4 and 5 thereof. In case there should be agreement that certain exceptions claimed are already so covered, you may suggest that that fact might be recognized merely by its inclusion in the *proces-verbal* of the conference. Such recognition of the exceptions would of course always have force in the interpretation of the convention.

In addition to reducing the number of individual exceptions to be discussed by the Conference, and ultimately the number of specific restrictions recognized as admissible under the convention, this procedure would have the advantage of bringing into the open the particular objectives sought by the different countries in presenting their reservations, and obtaining either the withdrawal or the limitation of the application of exceptional restrictions to the purposes or circumstances for which they are recognized. This scrutinizing and winnowing process should tend to strengthen materially the agreement that finally results.

It would appear desirable, however, in recognizing such exceptions, to have it made entirely clear that such recognition is without prejudice to the future interpretation of the provisions of the instruments signed.

Specifically, examination of the exceptions claimed indicates that the following may be so covered:

Bulgaria

Importation of products used for the falsification of national products.

It appears that this exception might be covered under paragraph 7 of Article 4, or by internal regulations as to the marking of imported products to show origin and in special cases the nature and ingredients of the product.

Czechoslovakia

Importation of pink clover seed; sugar beet seed; seeds of conifers; shoots of forest trees.

Two courses of action other than specific reservations seem possible. If it is a question of the sanitary condition of these seeds or shoots, the

²² See telegram No. 47, Apr. 27, 6 p. m., to the Minister of Switzerland, p. 371.

exception is covered under paragraph 4 of Article 4; or if it is a question of quality standards, they are covered by paragraph 7 of Article 4. The second alternative is for the Czechoslovak Government to dispense with import restrictions on the above commodities by establishing internal regulations requiring the examination by Government experts of such products when offered for importation into Czechoslovakia, or for their identification by prescribed means; e. g. by the requirement that a certain proportion of seed be colored to indicate origin or quality. Such means of internal control are now applied on products of this character in the United States and other countries.

Importation of cattle and swine.

It is suggested that inquiry be made whether the object is the protection of public health or protection of domestic animals against disease, and if so the 4th paragraph of Article 4 would cover such a case.

Exportation of hop shoots.

If it is the maintenance of the reputed high quality of "Czechoslovak hops" which that Government desires to insure, that can be done by taking measures under the terms of the 7th paragraph of Article 4, and the corresponding provisions of the protocol, which are designed to cover quality standards. If the purpose sought is that presented by the Czechoslovak Government in its note to the Secretary General of February 14 (C. I. A. P. 23-Addendum), namely of preventing foreign competitors from misleading consumers as to the true origin of hops imported by them, it is difficult to see how a restriction on exportation from Czechoslovakia could prevent producers in another country from misrepresenting the products they ship into a third country. Protection in a common market against producers in a competing country would need to be secured rather by the methods employed to protect the use of other distinctly regional appellations, such as "champagne", either by seeking protection under the Madrid Convention of 1891,²³ concerning "the repression of false indications of origin of merchandise" (to which Czechoslovakia, as a number of other countries, has adhered), or by bilateral agreements with the Governments of those common markets for protection or legal redress against such misrepresentations within their territory.

Importation of matches.

It could be recognized that the Czechoslovak Government correctly interprets this reservation as coming under paragraph 8 of Article 4 as a *de facto* State monopoly.

Estonia

Exportation of platinum, precious stones, etc.

Inquiry may be made whether the goods in question are national treasures such as would come under the terms of paragraph 5 of Article 4. If so, specific reservation is unnecessary.

Exportation of butter and eggs.

The Estonian regulations affecting these commodities indicate that the purpose is to maintain the standard of quality of such products going abroad. If so, they are covered under the protocol to paragraph 7 of Article 4.

²³ Signed Apr. 14, 1891: *British and Foreign State Papers*, vol. xcvi, p. 837. Revised at Washington, June 2, 1911; *ibid.*, vol. civ, p. 137.

Portugal

Importation of horses, mules and cattle.

Inquiry may be made whether the Portuguese Government has in mind sanitary considerations, and if so, the exception for these animals could be covered under the 4th paragraph of Article 4.

It may be noted at this point, with reference to certain of the aforementioned prohibitions or restrictions of a sanitary nature, that the Department fails to perceive how a general prohibition applicable to imports of whatever origin could be justified as a *bona fide* sanitary requirement. It is not believed that any country exists whose sanitary situation is such as to be endangered by imports of any commodity from every other part of the world. Nevertheless, the question should be raised and if sanitary grounds are alleged, the foregoing point may be made and effort may appropriately be made to persuade the countries noting such exceptions to withdraw or modify them.

As a second step in the application of the general criterion as to the necessity of reservations, the exceptions admitted at the time of signing the convention might similarly be examined with a view to determining whether they could be admitted as falling within the terms of Articles 4 and 5. Thus, in view of the dependence of the Japanese people upon rice as their staple article of food, the Japanese exception as to restriction on rice might be considered as coming within the terms of Article 5 which authorizes an exception in the case of "extraordinary and abnormal circumstances" in order to protect the "vital interests" of the country. It is, of course, understood that the Japanese Government does not wish permanently to maintain this restriction, but rather wishes to reserve the right to impose it from time to time. Recognition of any prohibitions or restrictions as coming under Article 5 should take due account of the fact that their duration "shall be restricted to that of the causes or circumstances from which they arise".

The exception claimed by the United States as to the export of helium gas would doubtless be recognized as properly falling under the 3rd paragraph of Article 4 which relates to traffic in implements of war, and you are authorized to agree to its recognition as coming thereunder. Particularly since the exception of this commodity was agreed to at the time the convention was signed on November 8, 1927,²⁴ the Department assumes that no objection will be raised to granting that exception in favor of the United States. If, however, any questions should be raised as to this exception, you may state that the Government of the United States desires to maintain it, and that obviously it does not "prejudicially affect the trade of other countries" (see Article 6).

²⁴ See annex to art. 6, p. 345.

A further criterion by which the exceptions claimed under paragraph 2 of Article 6 may be tested is obviously found in the construction of the terms of that Article. It is therefore believed that the conference should examine carefully all such exceptions from that point of view. The Government of the United States considers that certain exceptions claimed under paragraph 2 are not properly admissible thereunder. In particular, reference is made to the claims for exception of raw materials, which appear to be essentially claims designed to effect economic protection by restrictions rather than by duties. Thus the Polish Government desires to restrict exportation of crude oil and the Czechoslovak Government of rounded timber.

The second paragraph of Article 6 of the convention only permits prohibitions or restrictions which "do not prejudicially affect the trade of other countries". Restrictions on the exportation of such important raw materials as crude oil and rounded timber can not be justified in accord with that principle. It is considered that a large measure of liberty in the exportation of raw materials is in the general interest of all countries, and makes for the reduction of friction between countries. Such a freedom of exports is clearly contemplated by Articles 1 and 2 of the convention.

The same considerations apply to the reservations made at the time of the convention, under paragraph 2 of Article 6, by Italy on the exportation of iron ores, and by Rumania on the exportation of ores or iron, copper and manganese. The fact that the countries in question may not be predominant suppliers of the commodities concerned does not change the situation; once it has been recognized that a country under the convention may reserve the right to impose restrictions on the exportation of raw materials from its territory, it would be difficult to prevent the major producers of the same materials for the world's markets from claiming the same privilege. In view of the position taken by Italian representatives in favor of freedom of access to raw materials at other international conferences, e. g., the Economic Conference of 1927,²⁵ it is possible that the Italian representatives may not insist on this exception.

The conditions under which Rumania's reservation regarding crude oil was allowed to stand last November might be recalled. The subject came up as the conference was about to end; the delegates, eager to leave for home, are reported to have interposed no objection (with the exception of the representative of the United States), not because the reservation seemed warranted, but rather because a refusal of the request would re-open the whole controversy and prolong the sessions. The Polish request for a similar reservation was obviously encouraged

²⁵ For correspondence concerning the Economic Conference, see *Foreign Relations, 1927*, vol. I, pp. 238 ff.

by that decision. The necessity for acting upon the Polish reservation gives logical occasion for the re-consideration of the hasty and inconsistent decision last fall regarding Rumanian oil.

Referring now to the reservations presented under paragraph 1 of Article 6 of the convention, whereby various Governments desire to maintain import or export restrictions for a temporary period, it appears to the United States Government that a good many of these reservations represent essentially attempts to afford domestic industries economic protection by restrictions rather than by duties, and are therefore contrary to the spirit and purpose of the convention unless justifiable on the same grounds as led the delegates to accept the reservations regarding such products as scrap metals and synthetic dye stuffs at the time of the convention. While the American delegation should take its stand against all such economic restrictions on the fundamental principle involved, the following are of particular concern to its trade and those on which it is desired that every effort be made to prevent their acceptance by the convention:

Import Restrictions: On automobiles (presented by Czechoslovakia and Portugal); agricultural food products (presented in varying degrees by Italy, Japan, Norway and Portugal); and motion picture films. The question of films has been brought forward since last November by the action of France, although similar restrictions are found in Great Britain, Germany, Austria, Hungary and Italy. The fact that the restrictions on films are operated through rationing at time of the granting of licenses for exhibition, rather than at the customhouse, does not essentially change their nature nor exempt them from the application of the convention on any ground that they are internal measures. To refuse to grant licenses for the exhibition of foreign films or the films of a given foreign country is tantamount in practice to refusing their importation into the country. Your stand in opposition to the film quota restrictions should find support from the representatives of the German Government which, despite repeated requests from its domestic film industry, declared that it would not ask a reservation for films because of its inconsistency with the general objective of the convention.

The grounds for objecting to the acceptance of import restrictions on automobiles or staple food products are obvious and need no particular elaboration. The fact that particular countries desire to maintain such essentially economic restrictions, the purpose of which is fully served in other countries by import duties, as important bargaining considerations in forthcoming treaty negotiations, does not make them any less objectionable in the light of the ends sought by the convention.

Export Restrictions. The permanent restrictions on the exportation of crude oil desired by Poland and Rumania, and on metal ores by Italy

and Rumania have already been dealt with. The problem of export restrictions on hides and skins appears to be on its way to solution through the special agreement on that subject recently concluded, but the attitude of this major conference against the acceptability of such restrictions should be unmistakable. In addition, the Portuguese desire to reserve restrictions on export of raw cork is of particular concern to American industries using that material, and the similar reservations desired by Czechoslovakia on rounded timber and by Finland on pulp wood are similarly objectionable to the United States. In the case of the reservations on lumber products, it is desirable that objection be maintained not primarily because the particular countries desiring these restrictions are important sources of supply, but because of the objectionable principle involved, which once recognized could be invoked also by other countries (as Canada in the case of pulp wood) and for other raw materials.

The Portuguese desire to reserve restrictions on other raw materials (wool, cocoons and pine resin) and on a range of staple food products (poultry, oil, vegetables, cereals, meat, etc.) as well as the Italian request for an exception on the exportation of "corn" (presumably an inexact translation for cereals) are of lesser direct importance to American trade, but should be equally objected to on the grounds of their obvious inconsistency with the basic principle upon which the convention is built. If accepted, these reservations, though apparently unimportant from the viewpoint of the volume of trade involved, would open the way to similar reservations on the part of other countries for these and other staple foods and raw materials for which they might desire a similar privilege of restricting their trade for economic purposes.

In this connection, attention is again called to the formal statement presented to the League on behalf of the United States on April 28 emphasizing the importance of considering specific exceptions by particular countries "not merely in relation to the foreign commerce of those countries in the articles in question but rather in the light of the possible effect of the general application of such exceptions by other countries as well".

Recognizing that it may not be possible to bring about the withdrawal or non-acceptance of all the reservations mentioned above, which the Department considers deleterious in principle, it appears that a practical means of compromise in case of need would be the granting of the reservation but subject to a definite time limit upon the periods which these temporary exceptions may be maintained. If possible it would be preferable that the time of termination of a given temporary reservation should take the form of a specified date rather than a given period from the coming into force of the convention. Thus, instead of agreeing to certain restrictions being enforceable for

a period for example of a year after the coming into force of the convention or the date of ratification by the particular country, it might be preferable to fix upon a definite date such as July 1, 1929 or January 1, 1930. At present the setting of such a date would appear to give a longer period for the maintenance of a restriction, but it has the important advantage of definiteness of termination upon which commercial interests can count. You may insist upon some such limitation as essential to our agreement to the exceptions desired by the various Governments.

The Department considers in principle that if it is not possible to have the above mentioned reservations ruled out altogether, but if a satisfactory agreement can be reached to abolish the objectionable exceptions within a given period in the near future, it would be preferable not to destroy the chances of agreement on the basis of the draft convention by inflexible insistence on their withdrawal, but rather to vote to carry it into effect, even with a number of temporary reservations, because of the moral effect to be derived.

Article 17, which is quoted above, provides that the conference shall determine:

“(b) The conditions required for the coming into force of the Convention and, in particular, the number and, if necessary, the names of the Members of the League and of non-Member States, whether they are signatories or not, whose ratification or accession must first be secured;

“(c) The last date on which the ratifications may be deposited and the date on which the Convention shall come into force if the conditions required under the preceding paragraph are fulfilled.”

Inasmuch as the Government of the United States is broadly interested in the effecting of a suitable agreement on this subject, which will have considerable moral force as condemning recourse to prohibitions and restrictions, the Department would consider it unfortunate if conditions were stipulated which would make unduly difficult the coming into effect of the convention. Inasmuch as the decision of the conference on this head, however, will depend to a considerable extent upon the attitude of the European Governments, the Department does not give you precise instructions on the point at this time but suggests that you discuss the situation informally with your colleagues at the earliest practicable opportunity and report the situation with your recommendations and a request for instructions.

It may be suggested that the United States should be one of the parties whose adherence to the convention would be requisite for its entering into force. Should this question be raised, you might informally point out that the United States does not apply prohibitions or restrictions of the character that would be prohibited by the con-

vention and that accordingly it would seem unnecessary to stipulate that the adherence of the United States should be prerequisite to the convention coming into effect. Nevertheless, if your colleagues feel definitely that the United States should be mentioned, the Department sees no ground on which objection to such a course could be maintained.

With respect to paragraph (c), the Department would be glad to see the convention come into force at the earliest practicable date inasmuch as its object is to remove burdensome and arbitrary interferences with commerce. As has already been suggested, any compromise that may be found necessary might take the form of fixation of a date until which temporary restrictions might be continued under the first paragraph of Article 6. Such date should be the earliest practicable date.

During the course of the conference you will, of course, keep the Department closely informed of important developments. The Department will endeavor to instruct you promptly in relation to matters that may be presented.

Before signing any agreement, you will, of course, report the full text to the Department for consideration.

I am [etc.]

FRANK B. KELLOGG

560.M3/23 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

[Paraphrase—Extract]

WASHINGTON, June 21, 1928—6 p. m.

63. . . .

Department has received since June 15 insistent requests from film interests which urge a very strong stand. A subsequent telegram may take up this subject.

KELLOGG

560.M3/24 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, June 27, 1928—5 p. m.

[Received 8:45 p. m.]

64. Much appreciate careful instructions contained in your 237, June 15.

1. Please elaborate meaning of second paragraph page 5 beginning "It would appear desirable."

2. Relative to films. Our attitude on this question will provoke the liveliest public interest and should be most seriously considered. In view of last paragraph your 63, June 21, 6 p. m., I venture to offer certain observations. . . .

WILSON

560.M3/25 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, June 28, 1928—1 p. m.

65. Your 64, June 27, 5 p. m., paragraph 2. Department would favor the first alternative that you suggest, namely the presentation in a speech of what would amount to a brief on the legality of the French action with respect to films under the terms of the treaty. However, the Department agrees with you that it is essential that such a procedure should meet with success, a matter concerning which you alone are in a position to judge. The Department therefore leaves to your discretion the question of what procedure you shall adopt in this case and is desirous of receiving the text of your proposed remarks, which you may make or not in accordance with the circumstances that may arise at the conference. Telegram will follow on point 1.

KELLOGG

560.M3/32 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, June 29, 1928—8 p. m.

67. Your 64, June 27, 5 p. m. paragraph numbered 1. The last paragraph on page 4 of Department's instruction No. 237²⁶ suggests possible recognition in *procès-verbal* that certain particular articles, exception of which from the application of the Convention is demanded by particular countries, may be considered as falling within the stated general exceptions of the Convention. Such recognition would doubtless determine the interpretation of the Convention so far as the articles and countries named are concerned.

The second paragraph on page 5²⁷ was inserted because it is deemed important that such interpretation be not used as a precedent for a loose interpretation of the Convention so as to except from its application similar articles or the same articles in respect of other countries. Accordingly, if such exceptions are recognized by the Confer-

²⁶ *Ante*, p. 374, paragraph beginning "It is obvious that discussions of the particular exceptions claimed".

²⁷ *Ante*, p. 374, paragraph beginning "It would appear desirable".

ence in order to bridge over present difficulties, it is important that a clause be inserted in the *procès-verbal* safeguarding against the extension of such interpretation of the Convention to cases that may arise at a future time.

Department intended this portion of its instruction No. 237 as suggestive only, leaving to your discretion the question whether or how far it is feasible.

Please inform Department concerning the time you will arrive at Geneva. . . .

KELLOGG

560.M3/28 : Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 2, 1928—5 p. m.

[Received 10:42 p. m.²⁸]

2. Following is text of speech, summarized when possible, which I suggest making with respect to restrictive measures on films.

Paragraph 1 refers to letter of French Government to League Secretariat dated January 27²⁹ (see C. I. A. P. number 23).

Paragraph 2 contains tribute to the *bona fides* of the French Government and to Serruys.³⁰

Paragraphs 3, 4, and 5, contain brief summary of French decree of February 18 and French regulations of March 12 and May 9.

Paragraph 6. Now, gentlemen, what is the meaning in simple words of this dry material which I have been forced to inflict upon you. To speak as directly and concisely as I can, it means nothing but this: That over and above a fixed percentage of the number of films introduced last year (and this percentage is good for this year only) an American producer of films must obtain the right to expose those films in France in one of two ways, either by the purchase and showing of a French film or by arranging with a French producer to obtain one of his seven visas which the producer has obtained for making a French film; furthermore, the total number of foreign films which may be shown in France within a given period is fixed.

7. Gentlemen, I have not hitherto used the words prohibition or restriction. It is difficult to perceive, however, how anyone can make known such a situation without using the words prohibition or restriction as applying to the action which the French are undertaking.

²⁸ Telegram in three sections.

²⁹ *Ante*, p. 368.

³⁰ Director of French Commercial Agreements.

8. Let me turn to article 10 which I mentioned above and let us envisage for an instant what such regulation might mean. Suppose an American film, the scene of which was laid in any country of the world, introduced as a character a Frenchman whose conduct might be obnoxious to the 32 gentlemen sitting on the commission, under this regulation not only could that film be refused a visa for French territory, but every film produced by this company, or any film handled by any person who had even handled this film, might be refused a visa for all time in France. Surely, gentlemen, I who am a very rare visitor to the films have frequently seen my countrymen put in a position and represented in a way which is objectionable to me as an American citizen. France is not alone in suffering from this misrepresentation. And yet has it occurred to any other nation to endeavor to take such drastic measures to protect their reputation abroad? Naturally no one deplures more than I do the bad taste of an American producer who will caricature or falsify the characteristics of a member of any foreign nation, and I the more deeply deplore this in that I am persuaded that one of the best forms of mutual understanding and one of the best lessons in comprehension between nations is conveyed by means of the motion picture films. However, this must be produced by mutual satisfaction and by mutual good understanding on the part of producers and foreign governments and cannot, it seems to me, be produced by the application of force. Carry this thought to a possible extreme and you must envisage the possibility of the exclusion, or at least the restriction, of foreign books, magazines, plays and in fact any form of artistic or intellectual productions.

9. One of the complaints most frequently heard against the system of import and export restrictions and prohibitions, a complaint which was brought by chambers of commerce of all nationalities as was shown by the speeches in the First Conference, lay in the fact that international trade must have a definite and accurate basis for a foreseeable period in advance in order to lay its plans and carry out its business. To eliminate this state of fluidity and uncertainty was one of the primary purposes for which we were summoned 6 months ago to write a convention. Such action as is authorized by the French decree which established a commission which from day to day or from hour to hour may change its rules goes back to that uncertainty and to those fluid conditions which make it nearly impossible to do business with success. In the motion picture trade as in others a considerable investment is necessary in order to sell goods abroad. There must be offices, there must be distributing centers and showing centers, and a hundred other expenses. Under these French regulations our producers are asked to undertake this expense with no certainty that the field will even be open to them in the future. They may establish a distribution service on the basis fixed for a year's distribution and as

soon as their expense is consummated the whole basis on which they have built up their service may be altered over night.

10. For the sake of clarity I must ask you to subdivide this question in your minds into two very distinct and separate categories; the first, the right of a nation, based on the very reasonable contention that a state must maintain public morals and order, to censor the films shown to its own people. With this right we have of course no opposition to raise. We fully recognize such right in any state. The second category has to do with the handling of this question for economic purposes for the purpose of protecting industry. It is the action of France in relation to this second category to which we take exception and which I hope to be able to demonstrate to you gentlemen is clearly contrary to the purpose of this convention.

11. Gentlemen, when we drew up our convention last autumn it was to do away with restrictive measures on importation—certain specified exceptions were allowed but it was certainly the spirit, more than that it was the intent—of the instrument to do away with all other types of formalities and regulations of a nature to restrict importation.

12. Now, I ask you, what does importation mean?—in our minds, in the minds of businessmen, in the ordinary conception of the word? Does it mean, I ask you, merely the passing of a frontier or the passing of a frontier for a useful purpose? Does it mean that we Americans are free to ship wheat and cotton to the world, to enter the states freely, but still may be prevented from distributing this wheat and cotton by so-called internal regulations? Does it mean we can send typewriters, motorears, or any other form of our products freely to the world but that the other states may in their discretion decide which ones of these motorears and which ones of these typewriters may be distributed and sold within their frontiers? On [*Eliminate*] the question of public order and public morals, and [the] cases are not only analogous but identical.

13. I cannot conceive that any body of men who have the welfare of commerce at heart and who have given the labor that you, my colleagues, have given to this convention are willing to see it vitiated by a legalistic interpretation which makes it not worth the paper it is written on. If it should be decided that our convention has to do with the mere crossing of frontiers for articles of trade but leaves foreign nations free to prevent the disposal of these articles within their frontiers, then what, I ask you, is left of this convention?

14. The word films was not mentioned through our debates in October. No nation having similar restrictions brought up this question. I wish this conference would consider this point—it is an important one—that is, why was this question not raised in the [first] conference? Gentlemen, I have made careful inquiry among the representatives of states having [similar] restrictions and I have ascer-

tained from at least two of these representatives that they did not raise the question because they assumed that once this convention was put in force those questions [*restrictions*] must automatically be dissolved by the states or at least after six months as provided by article 1 of this convention. There was no question in their minds as to whether a restriction on importation meant only the crossing of the frontier or meant crossing the frontier for a useful purpose.

15. The point may be brought out that large film interests of the United States have dealt with the French Government on the basis of these regulations and have reached a satisfactory agreement and therefore why should the Government of the United States enter into this question.

16. I should like to deal with this phase of the question now. In the first place, such film interests as have dealt with the French Government have acquiesced [in] and not agreed to the procedure of that Government. They have so acquiesced because they were faced with a condition in which they stood to lose heavily. They were confronted with a state of facts with which they had to deal and under *force majeure* they took the best they could get in order to enable them to continue to do business temporarily. It obviously does not mean that the case of the United States Government is in any way prejudiced in dealing with the convention, which has not yet come into effect, and in discussing what interpretation may be put to [*upon*] that convention in the future.

17. I mentioned earlier that this question was broader than the action of France alone and I earnestly beg you to consider the consequences implied in the acceptance of the French thesis that their action does not violate the convention. Warning has already been served by certain states which implies that they will consider the decision as to France as a precedent and as I endeavored to make clear before, this matter must not be considered alone but as a precedent by which any state which is embarrassed on economic grounds by importation may set up a machinery by way of internal regulation by which it may act in harmony with the convention and still against its purposes. It seems to me, gentlemen, that this is one of the most vital questions with which the Conference has been confronted because we must decide not a simple question of one exception, but a question of principle by which we establish a precedent which may save or wreck the future operation of this convention. I most earnestly hope that this question will be examined in the broadest spirit and with the fullest comprehension of the dangers which lie in acquiescing in the French contention.

18. I cannot reach my conclusion without again paying tribute to the spirit of loyalty which animated the French Government in bringing this matter before the Conference. If anything that I have

said has raised a shadow of doubt as to my belief in the sincere good faith in which the French Government has acted, I can only assure you that nothing could have been more remote from my intention than to [carry] such an implication. The French Government said, "Although these measures cannot be described as prohibitions within the strict meaning of the convention". My government is not prepared to agree with the French Government even as to this contention, in which the French Government itself seems to have considerable doubt, but leaving aside for a moment the question of strict interpretation, I beg you will not consider this affair merely as one of strict legality but on a broader and more comprehensive basis and one calculated to accomplish the broad purpose for which we have written this convention, namely, to increase the facilities of international trade.

WILSON

560.M3/40 : Telegram

The Acting Secretary of State to the Chief of the American Delegation (Wilson)

[Paraphrase]

WASHINGTON, July 3, 1928—6 p. m.

1. (1) The address which you proposed in your telegram No. 2, of July 2, 5 p. m., is approved.

(2) The Department desires, if you make this address, that you follow it up with the utmost vigor and that you urge, unless you know of some reason to the contrary, a positive expression by the Conference that it considers restrictions such as those of France on the subject of exhibiting foreign films, to be contrary to the intent of the convention of November 8, 1927, and, in fact, in contravention of it. If encouragement is given you and the agenda of the Conference permits, you should take under advisement the offering of a protocol or of a declaration such as outlined above, which instrument would be signed by the states parties to the convention itself. Department approves your telegraphing the text of such a declaration should you consider at any time that the probability of success warrants placing it before the Conference.

(3) Should there be slight prospect of the adoption by the Conference of such an instrument as that outlined above, or even of a nonbinding resolution, you should naturally undertake to prevent any expression on the part of the Conference on the subject of film restrictions. . . .

CASTLE

560.M3/34 : Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 3, 1928—9 p. m.

[Received 10:37 p. m.]

3. In today's meeting Colijn held Conference strictly to immediate business and gave no opportunity for remarks of a general nature. He called states alphabetically who had made reservations since November 8th and requested them to state:

- (a) Whether they maintained those reservations;
- (b) Whether those reservations were in effect before November 8th, 1927 (see [annex to] article 6, first paragraph);³² or
- (c) To make such explanation and defense of the reservations as seemed desirable.

Considerable debate developed on procedure and whether Conference could give assurance to states that certain exceptions were covered by specific articles other than article 6. In the light of your instructions, I advocated giving such assurances in specific border-[line] cases but I was unable to obtain complete acceptance of this view. The Conference finally decided that lacking full facts and under limited terms of reference no such assurance could be given and that claims for exception which seemed to be covered by other sections of the convention must be thrown out as not admissible to discussion under article 6. Thus the petitioner would have a clear indication of the opinion of the Conference, while the Conference would have committed itself to no affirmative interpretation.

WILSON

560.M3/36 : Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 3, 1928—10 p. m.

[Received July 4—3:06 a. m.]

4. Supplementing my 3, July 3, 9 p. m. Belgium voices its exception for raw bones in view of signature yesterday of agreement on hides and bones, text of which is not yet available.

Consideration of the Bulgarian exceptions postponed.

Estonian exception for butter and eggs rejected; that on platinum, et cetera, admitted for discussion.

United States exception on helium gas admitted for discussion.

³² *Ante*, p. 345.

Norway withdrew exception for cereals. Its exception on shares of shipping companies was thrown out; its exception for vessels and parts of vessels admitted for discussion.

Chile, which signed on June 14th, submitted reservations which Conference voted not to debar because of delayed date of submission, reading as follows:

“Reservations: On signing the present convention the undersigned declares on behalf of his Government:

(a) That he is firmly convinced numbers 1 and 3 of Article 4 cannot be [invoked by the] other high contracting parties in order to prohibit or restrict the import into their territory of Chilean nitrate of soda, which is employed for agricultural purposes.

(b) That, in the opinion of the Chilean Government, the convention affects neither the tariff system nor the treaty-making methods of the participating countries, nor the measures taken to ensure the allotment [*application*] thereof, including any steps taken to counteract the effects of dumping.

[My Government also takes this opportunity of drawing the attention of the other High Contracting Parties to the prohibitions or restrictions which it desires to maintain, and which I should be obliged if you would likewise submit to the said Conference for consideration:

Upon the export of:]³³

(1) Scrap iron and scrap zinc, in accordance with paragraph 2 of article 6 of the convention.

(2) Guano, the export of which is prohibited as the reserves will probably be exhausted in the near future. In my government's opinion, this prohibition could also be based on paragraph 8 of article 4 of the convention.

(3) Mares, in accordance with paragraph 1 of article 6, as my Government has been obliged for the time being to prohibit the export of these animals to meet the requirements of national defense.”

Conference refused to discuss reservation (a), threw out exception for guano and postponed consideration of exceptions on scrap iron and on mares.

Poland withdrew reservations on dye stuffs and crude oils but indicated at the same time that it retained its declaration relative to ratification contained in its letter of January 31st (C. I. A. P. 23).

WILSON

³³ Bracketed portion, omitted in telegram as received by the Department, supplied from *Proceedings of the Conference*, p. 119.

560.M3/35 : Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 4, 1928—3 p. m.

[Received July 4—12:10 p. m.]

5. Your 1, July 3, 6 p. m. Conference has taken definite position that under its terms of reference its only task is to discuss the three provisions stipulated in article 17 of the convention. From this fact and from consultation with my colleagues it would appear impossible to bring film matter to a decision, so that if we cannot win at least we cannot lose.

I propose therefore to tell the President that whatever limitation the Conference has put on its scope, France having stated its viewpoint in its letter of January 27,³⁵ I must insist upon the right to make a statement of our viewpoint regarding the French regulations. I anticipate that Conference will promptly rule after my statement that subject does not fall within its competence.

WILSON

560.M3/37 : Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 4, 1928—8 p. m.

[Received 10:30 p. m.]

6. In meeting this morning Portugal withdrew all claims for exceptions on imports and all but three, those on raw cork, wool and pine resin, for export. These three were transferred to paragraph 2 of article 6 and were admitted for discussion.

Sweden maintained its reservation on scrap iron.

Czechoslovakia withdrew most of its reservations but maintained four outright which were admitted to and understood under article 6, paragraph 1. These dealt with automobiles, salicylic acid, cattle and swine and wine. It also maintained contingently reservations under paragraph 2 of article 6 on sugar beets, rounded timber and quartzite which have been referred to subcommittee composed of German, Austrian, Czechoslovakian and Hungarian delegates, for possible special agreement which may enable complete withdrawal.

At the risk of repetition, the following greatly reduced list has now been admitted for discussion under article 6 as a result of winnowing process:

³⁵ *Ante*, p. 368.

Claims for exceptions admitted by the Conference for consideration under article 6:

Czechoslovakia: Import: Automobiles, salicylic acid and its derivatives, cattle and swine for slaughter and breeding, wine; Export, conditional (subject to agreement with neighboring countries): Sugar beet[s], timber rounded, quartzite.

Estonia: Export: Platinum, precious stones, pearls and corals (in rough state of finished, loose or mounted).

Norway: Export: Vessels and parts of vessels.

Portugal: Export: Wool, raw cork, pine resin.

Sweden: Export: Scrap iron.

United States of America: Export: Helium gas.

Claims for exchange left open for decision:

Bulgaria: Export: Rose-trees and roots and shoots; Import: Products used for falsification of national products.

Chile: Export: Scrap iron and scrap zinc; mares.

WILSON

560.M3/39: Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 4, 1928—9 p. m.

[Received 10:12 p. m.]

7. My 6, July 4, 8 p. m. Afternoon meeting. Estonian exception on platinum, precious stones and corals admitted under paragraph 2 of article 6.

United States reservation on helium admitted under paragraph 2.

Swedish reservation on scrap iron admitted under paragraph 1.

Portuguese request concerning wool postponed pending receipt of further information. Exception on raw cork voted down under paragraph 2 and accepted under paragraph 1. I voted in the negative in the first instance and abstained in the second. I made final proposal for time limit which Portuguese delegate refused. The discussion brought out the fact that the Portuguese prohibition on the export of raw cork has been in existence since 1910 and that the Portuguese Government has never restricted the exportation of cork in sheets or other forms of manufactured, semimanufactured cork. Also that in commercial negotiations no objection has ever been raised to the Portuguese restriction on the exportation of raw cork which has for its purpose merely to furnish occupation for Portuguese peasants. Though I argued against acceptance, the Conference was overwhelmingly desirous of giving some satisfaction to Portugal to enable it to ratify. Therefore when it was inserted under paragraph 1, i. e. "temporary", I abstained from opposition.

Portuguese reservation on pine resin admitted under paragraph 2.

WILSON

560.M3/38 : Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 5, 1928—2 p. m.

[Received July 5—9:50 a. m.]

8. On termination of debate on exceptions under article 6, Colijn plans to call for general discussion on ratification and then to appoint a subcommittee to work out a definite plan to be submitted to Conference. He will probably request each state to declare when convention may be submitted to legislative body for approval. Am I authorized to state that convention and protocol with new annex, if you authorize me to sign, will be submitted to the Senate in the next session?

WILSON

560.M3/41 : Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 5, 1928—2[7?] p. m.

[Received July 5—6:15 p. m.]

9. Portugal limited its reservation on wool to "fine wool of category known as 'Marquis de Lema'" in which form it was accepted under paragraph 2.

Czechoslovak delegate withdrew reservation on salicylic acid and gave formal undertaking that his country would only maintain its reservation on automobiles, wine, cattle and swine until November 8, 1930.

Debate on Czechoslovakian reservation assumed a certain intensity and it became clear that if they were admitted even in modified form numerous other reservations would be demanded by other countries. After opposing automobile reservation, I finally suggested that the difference between the date on which the convention would actually enter into force was so slight that Czechoslovakia might well withdraw reservation without disadvantage to herself. France supported this suggestion.

WILSON

560.M3/42 : Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 5, 1928—8 p. m.

[Received July 5—4:09 p. m.]

10. My 9, July 5, 7 [2?] p. m. Afternoon meeting. Norwegian delegate withdrew his reservation on vessels and parts of vessels.

Chilean reservation on scrap iron and scrap zinc rejected under paragraph 2 but accepted under paragraph 1. Reservation on mares accepted under paragraph 1.

Decision on Czechoslovak reservations postponed at the request of [Dr. Vincent] Ibl pending receipt by him of further instructions.

There was then a preliminary discussion of the second and third points of agenda dealing with conditions required for entry into force of convention. This brought up a greater divergence of opinion than hitherto manifested in Conference. Tendencies not yet sufficiently clarified to telegraph.

WILSON

560.M3/43 : Telegram

The Secretary of State to the Chief of the American Delegation (Wilson)

WASHINGTON, July 5, 1928—6 p. m.

2. Your 8, July 5, 2 p. m. Department cannot, of course, authorize statement that would bind the President to submit a treaty to the Senate and would not undertake in advance to recommend a treaty to the President. Nevertheless, you may state that the next regular session of the Senate convenes on December 3 and that there is every reason to suppose that the instruments which you signed on January 30 and such instruments of the Conference now in session as you may be authorized to sign will be submitted to the Senate on or shortly after that date.

KELLOGG

560.M3/44 : Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 6, 1928—6 [2] p. m.

[Received July 6—11:35 a. m.]

11. Morning meeting. A proposal was brought forward by small drafting committee concerning ratification. It provided:

(a) Ratification must be made by at least 20 states.

(b) Each state notifying ratification before September 30, 1929, might name certain states from following list on whose ratification it makes its own ratification dependent.

List follows: Germany, Austria, (United States of America), France, Great Britain, Hungary, Italy, Japan, Poland, Rumania, Serb-Croat-Slovene State, Switzerland, Czechoslovakia, Turkey.

In presenting proposal French delegation stated committee had put the United States in parentheses since they realized that this was year of short session of Congress and ratification might be delayed by rush of business. A confused and inconclusive debate followed in which I took no part, as I had previously followed Department's instructions by stating that we considered it improbable that the United States need be included in the list because we had no prohibitions to abolish. One fact of interest to us came to light. Certain states, notably Germany, insisted that ratification by the United States might be necessary essential prerequisite to their ratification. The German delegate explained that unconditional most-favored-nation clause in American-German bilateral commercial treaty³⁰ would make it essential to give benefits to the United States if Germany ratified irrespective of American ratification.

I propose to take little part in the debate since matter is primarily one of Central European concession. Enlarged subcommittee is now endeavoring to work out another concrete proposal.

WILSON

560.M3/46 : Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 6, 1928—9 p. m.

[Received July 7—1 a. m.]

12. At afternoon session general conference received report from the special conference on hides, skins and bones to the effect that conventions on skins and bones had been approved by 18 states. These are to be regarded as acts separate from the general convention and to be ratified in advance thereof. The conference agreed in principle to insert a paragraph in the general convention providing that, if the hides and bones agreements have not been ratified at the time of the entry into force of the former, the interested states may again introduce their claims for exceptions on hides and bones which would then have to be passed on by a special meeting of the Conference. The drafting was referred to a subcommittee.

The Conference then agreed in principle that the general convention must be ratified by at least 18 states, including the list of 14 states contained in my 11, July 6, 2 p. m.

Ratifications are to be notified before September 30, 1929; if all conditions have been fulfilled on that date, convention will enter into force on January 1, 1930; if not fulfilled, final paragraph of article 17 will apply.

³⁰ Treaty of Dec. 8, 1923, *Foreign Relations*, 1923, vol. II, p. 29.

A special clause to be added to protocol was passed in principle as follows:

“Owing to the position of the United States resulting from the short session of the Congress during the year 1928–1929, the high contracting parties are agreed that if the United States’ ratification has not been obtained before September 30, 1929, in conformity with the provisions of article (blank) but the ratifications or accessions of all the other states which are indispensable by the same article have been received by September 30, 1929, the convention shall come into force on January 1, 1930, unless previous to November 15, 1929, one of the states having ratified the convention by that date or having acceded thereto before September 30, 1929, raises an objection.

In this case the last paragraph of article 17 of the convention of November 8, 1927, shall apply.” (see my 11, July 6, 2 p. m.).

In regard to Czechoslovakia’s conditional reservations, those on sugar beets and rounded timber have been withdrawn. That on quartzite was admitted under paragraph 2 of article 6 and of hop shoots under paragraph 1. Czechoslovakia deferring to arguments advanced in my 9, July 5, 7 [2?] p. m., thereupon withdrew its exceptions on automobiles, wine, cattle and swine.

Bulgarian reservation on rose trees, roots and shoots admitted under paragraph 1; that dealing with falsification of national products rejected.

Colijn announced that there will be a short session tomorrow morning at which drafting committee will be appointed to work over weekend and submit final draft for consideration Monday afternoon. Colijn subsequently informed me I would be given an opportunity to make statement on films Saturday morning.

WILSON

560.M3/47 : Telegram

*The Secretary of State to the Chief of the American Delegation
(Wilson)*

WASHINGTON, July 7, 1928—1 p. m.

3. Your 11, July 6, 6 [2] p. m. Department wishes you to use your full influence in debate or otherwise persistently against proposal outlined and in favor of the simplest practicable provisions for bringing the Convention into effect. Prompt operation of the Convention is of importance to American commerce.

There seems no good reason for requiring acceptance by a larger number of States than the number which at present maintain well-developed systems of prohibitions and restrictions. If the effectiveness of the Convention or the effectiveness of any State’s ratification thereof must be contingent upon its acceptance by any particular State, that State should be one which maintains such a system.

The contention of German delegate could have practical importance only if the United States maintained a system of restrictions. Since the ratification by the United States of the Convention would not alter the situation so far as its laws and regulations are concerned, Germany, though bound to give it most-favored-nation treatment, would, in return, receive everything without American ratification that it would in the event of American ratification. As a practical matter, only countries that are under most-favored-nation obligations to countries that maintain systems of restrictions, against which the former countries desire to retaliate, need hesitate on that ground to ratify the Convention.

Referring to your reports of the Conference, Department is gratified that a number of the exceptions reserved by other countries have been withdrawn, and wishes you to assist diligently in this process, especially urging the immediate withdrawal of all restrictions affecting the import of automobiles and the export of the raw materials of industry.

KELLOGG

560.M3/48: Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 7, 1928—3 p. m.

[Received July 7—3 p. m.]

13. Drafting committee composed of Colijn, Serruys, Brunet, Chapman and Ito.

Portuguese reservation changed as a result of garble in telegram; it now reads "fine wool" and has been admitted under paragraph 1 of article 6.

Special provision agreed upon permitting the United States and Bulgaria [to] maintain their reservations by signing annex and protocol to general convention on or before September 1st.

Text for first reading will be circulated tomorrow morning for probable signature Wednesday, July 11th.

WILSON

560.M3/49: Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 7, 1928—4 p. m.

[Received July 7—2:30 p. m.]

14. Made film speech this morning and general reservations of our rights³⁷ (see my 57, July [June] 5, 3 p. m., from Berne). Serruys in

³⁷ For substance of speech see Mr. Wilson's telegram No. 2, July 2, 5 p. m., p. 383. The complete text is printed in *Proceedings of the Conference*, p. 86.

a reply that was characterized by considerable bitterness in manner maintained that national culture was at stake. He claimed that his restrictions were manifestation of a spiritual defensive to protect manners, morals and traditions of his people. To accomplish this object, censorship alone was insufficient and a certain national industry was essential. He agreed that there should be no administrative measures for economic purposes and insisted that his regulations had only cultural ends in view. He accused the United States of using sanitary and pure food regulations to disguise economic purposes. He denied analogy between films which had culture essence and other commodities. He closed by stating that the regulations I referred to do not now exist; that amended regulations are being prepared but repeated some very similar regulations must continue to exist.

German delegate then made a speech pointing out that under decision of Conference our terms of reference were interpreted in such a manner that Conference could not make a decision in this matter. He agreed, however, with many points of Serruys' culture arguments and reserved Germany's right to impose measures in the future to protect Germany's traditions. Austria, Italy and India made similar declarations.

I have the conviction that the sense of the Conference, if a decision had been possible, would have been that nations have a right to maintain some form of protection for their culture and traditions.

WILSON

560.M3/50 : Telegram

The Chief of the American Delegation (Wilson) to the Secretary of State

GENEVA, July 8, 1928—noon.

[Received July 8—9:23 a. m.]

15. Your 3, July 7, 1 p. m. Your original instructions were so comprehensive that at every stage of proceedings the attitude that I should take was clearly indicated to me. Although I took a minor part in debate on ratification matter (see my 11, July 6, 2 p. m.), nevertheless I worked diligently in conversation with my colleagues to persuade them that it was unnecessary that the United States be included in the list. Probably as a result of these conversations the French delegate twice urged the Conference vigorously not to insist on the necessity of American ratification but was overruled by the general opinion. I was not able to persuade certain of the delegates, notably the German, Swiss and Japanese, that America should not be included in the list. This particular matter has been debated to such an extent that I am convinced that no useful purpose would be served by further insistence on our part and might even give rise to suspicion of our

bona fides. I earnestly hope that the Department will not insist further in this matter. I deplore, as you do, the complex nature of these clauses and wish it had been possible [to] simplify the procedure, but it must be borne in mind that what is adopted is much simpler than certain of the schemes proposed and is a compromise reached after prolonged discussion.

WILSON

560.M3/53 : Telegram

*The Secretary of State to the Chief of the American Delegation
(Wilson)*

WASHINGTON, July 8, 1928—12 noon.

4. Your 15, July 8, noon. Department is satisfied that you have done all that could have been expected and leaves your future course entirely to your judgment.

KELOGG

560.M3/55 : Telegram

*The Chief of the American Delegation (Wilson) to the Secretary of
State*

GENEVA, July 11, 1928—2 p. m.

[Received July 11—11:30 a. m.]

19. Supplementary agreement signed this morning by 27 States, i. e., all those represented at Conference except the United States and Bulgaria.³⁸

Moffat and I return to Berne this afternoon.

The entire delegation expresses its thanks for helpful and sympathetic support.

WILSON

INTERNATIONAL CONVENTION OF THE COPYRIGHT UNION, AS
REVISED AND SIGNED AT ROME, JUNE 2, 1928³⁹

554.A2/7

The Italian Ambassador (De Martino) to the Secretary of State

The Italian Ambassador presents his compliments to His Excellency the Secretary of State and has the honor to inform him that

³⁸ Signed by Mr. Wilson on behalf of the United States, July 31, 1928. For text, see p. 357.

³⁹ For records of the International Conference for the Revision of the Convention of Berlin of 1908, see *Union Internationale pour la protection des oeuvres littéraires et artistiques. Actes de la conférence réunie à Rome du 7 Mai au 2 Juin 1928* (Berne, 1929). For text of the convention of Berlin of 1908, see *League of Nations Treaty Series*, vol. I, p. 217.

during the month of October 1927 there will be held in Rome an International Conference on Copyright to which it is the earnest desire of the Royal Italian Government that the Government of the United States send its delegates.

Whilst conveying this invitation, the Italian Ambassador has the honor to communicate that this Conference is in pursuance of the Convention held in Berne during the year 1886, when the desirability of periodical revisions of the Convention was agreed upon, and he has further the honor to recall that at the last Conference, held in Berlin in 1908, the proposal was unanimously approved to have the next meeting within ten years in the City of Rome. On account of the World War this event was postponed, but the time is now considered ripe for it to take place.

With the occasion the Ambassador has the honor to call attention to the fact that when the last Conferences took place in Paris (1896) and in Berlin (1908) invitations to participate were extended also to many States not belonging to the Union and that the delegates of these States who will attend the Conference in Rome will enjoy full liberty of action and will be able to follow its work and deliberations without however engaging themselves in any way whatever.

The Royal Italian Government trusts that, irrespective of the present state of legislation on Copyright in the various countries, the States not belonging to the Union will also participate to the Conference and leaves it, of course, to them to decide on the advisability of endowing their respective delegates with full powers in case adherence to the International Copyright Convention at Berne were desired.

WASHINGTON, *August 2, 1927.*

554.A2/7

The Secretary of State to the Italian Ambassador (De Martino)

WASHINGTON, *April 28, 1928.*

EXCELLENCY: Referring to your note of August 2, 1927, inviting the Government of the United States to participate in the International Conference on Copyright to open at Rome on May 8 next,⁴⁰ I have the honor now to inform you that, after reconsideration, it has been decided to accept the invitation and that the Honorable Henry P. Fletcher, American Ambassador at Rome, Mr. Thorvald Solberg, Register of Copyrights, Library of Congress, and the Honorable Sol Bloom, Member of Congress, have been designated to attend the Congress as delegates on the part of the United States.

⁴⁰The Conference had been postponed from October 1927.

The American Ambassador at Rome was instructed by cable on April 25⁴² to advise your Government accordingly.

Accept [etc.]

FRANK B. KELLOGG

554.A2/46

The Ambassador in Italy (Fletcher) to the Secretary of State

No. 1797

ROME, July 25, 1928.

[Received August 10.]

SIR: Referring to my despatch No. 1726 of June 5th last⁴² enclosing an advance copy of the Report of the United States Delegation to the International Conference for the Revision of the Convention of Berlin of 1908 for the Protection of Literary and Artistic Works, as well as a copy of the printed text of the Convention as signed here, together with a copy of the Report of the Reporter General at the Conference, I now have the honor to enclose the original Report of the United States Delegation to this Conference.

The Report of the Delegation is accompanied by a corrected text of the Convention signed here, in triplicate, which should be substituted for that accompanying my despatch No. 1726 above mentioned. The corrections, however, are merely typographical.

The Report is accompanied by:⁴³

- Appendix 1. A complete file of all papers issued by the Secretariat General of the Conference, in the French language.
- Appendix 2. Minutes of the inaugural session, May 7, 1928.
- Appendix 3. Minutes of the first plenary session, May 8, 1928.
- Appendix 4. Minutes of the second plenary session, June 1, 1928.
- Appendix 5. Minutes of the closing session and signatures.
- Appendix 6. Printed text of the Resolutions of the Conference.
- Appendixes 7 and 8. Propositions, Counter-Propositions and Amendments proposed.

The Department is thus in possession of a complete file of the Conference. I understood from Representative Bloom that he was having English translations made of the minutes of the various committee meetings. If he has done this I have no doubt he would be glad to make translations available to the Department.

I have [etc.]

HENRY P. FLETCHER

[Enclosure]

The American Delegation to the Secretary of State

ROME, June 4, 1928.

SIR: The undersigned, appointed by the President as Delegates of the United States of America to the International Conference for

⁴² Not printed.

⁴³ Appendixes not printed.

the Revision of the Convention of Berlin of 1908 for the Protection of Literary and Artistic Works, have the honor to submit the following report:

The Conference met at Rome on May 7th and concluded its labors on June 2, 1928. The following members of the Union were represented: Germany, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Denmark, Free City of Danzig, Spain, Estonia, Finland, France, Great Britain, Greece, Hungary, India, Ireland, Italy, Japan, Luxemburg, Morocco, Monaco, Norway, New Zealand, Netherlands, Poland, Portugal, Rumania, Sweden, Switzerland, Syria, Czechoslovakia, Tunisia. The following non-member countries were also represented: Chile, Colombia, Cuba, Egypt, Ecuador, United States of America, Guatemala, Latvia, Lithuania, Mexico, Nicaragua, Persia, Peru, San Marino, Salvador, Yugoslavia, Siam, Turkey, Uruguay, Venezuela.

The delegates representing Union countries only were given the vote. Representatives of non-Union countries were given every facility for speaking but had no vote.

The official language of the Conference was French.

At the first plenary session a drafting committee was appointed and the Conference sitting as a committee of the whole was in almost daily session. More than one hundred proposals for the amendment of the Articles of the Convention of Berlin of 1908 were suggested by delegates from the different countries of the Union, debated at great length and very fully considered. All the committee hearings were open to all delegates who desired to be heard.

One or more members of the United States Delegation attended every meeting of the various committees and the Delegation kept in close touch with the debates and developments of the Conference. The United States Delegation has at all times given full and careful consideration to all suggestions received from time to time from representatives of American interests. As occasion arose suggestions and explanations were made by our Delegation when proposals were in debate which in our opinion if adopted might injure American interests or hinder or prevent the eventual adhesion of the United States to the Convention. The observations of members of the American Delegation were at all times given careful consideration by the Conference.

The official text of the Convention adopted by the Conference and signed in Rome on June 2, 1928, is hereto attached, accompanied by an English translation.

The proceedings of the Conference, reports of committees, and all documents issuing from the Secretariat General also appear in the Appendix to this Report.

Representatives of the following named countries signed the Convention: Germany, Austria, Belgium, Brazil, Bulgaria, Denmark, Free City of Danzig, Spain, Estonia, Finland, Great Britain, France, Canada, Australia, New Zealand, Ireland, India, Greece, Hungary, Italy, Japan, Luxemburg, Morocco, Monaco, Netherlands, Norway, Poland, Portugal, Rumania, Sweden, Switzerland.

The Delegation wishes to call special attention to Paragraph 3 of Article 28 of the Rome Convention which, in translation, reads as follows:

“The countries not members of the Union may up to the 1st of August 1931 join the Union by way of adhesion either to the Convention signed at Berlin on the 13th of November 1908, or to the present Convention. After the 1st of August 1931 they may only adhere to the present (Rome) Convention.”

A Resolution was also adopted (Voeu VI) to the following effect:

“The Conference, bearing in mind the identity of general principles and objects of the Berne Convention, as revised first at Berlin and then at Rome, and of the Convention signed by the American States in Buenos Aires in 1910,⁴⁴ as revised at Havana in February 1928;⁴⁵ noting that most of the dispositions of the two Conventions are in agreement: expresses the hope that conformably with the suggestions made by the Brazilian and French Delegations, the American Republics signatory to a convention to which the non-American States are unable to adhere, may, on the one hand, following the example of Brazil, accede to the Berne Convention as revised in Rome, and that, on the other hand, all the interested Governments may agree among themselves with a view to preparing a general understanding having as a base those rules of the two Conventions which are similar and as an object the unification throughout the world of the laws protecting intellectual production.”

The Delegation wishes to acknowledge the courteous consideration shown by the Conference to the suggestions made by our Delegation and the attentions and hospitalities received from the Italian Government and its officials while in attendance upon the Conference.

Respectfully submitted,

HENRY P. FLETCHER
 SOL BLOOM
 THORVALD SOLBERG
 WARREN D. ROBBINS
 MOWATT M. MITCHELL
 GEORGE R. CANTY

⁴⁴ *Foreign Relations*, 1910, p. 57.

⁴⁵ Not printed.

[Subenclosure—Translation]

Convention for the Protection of Literary and Artistic Works Signed at Berne, September 9, 1886, As Revised and Signed at Berlin, November 13, 1908, and at Rome, June 2, 1928 ⁴⁶

The President of the German Reich; the Federal President of the Republic of Austria; His Majesty the King of the Belgians; the President of the United States of Brazil; His Majesty the King of the Bulgarians; His Majesty the King of Denmark; His Majesty the King of Spain; the President of the Republic of Estonia; the President of the Republic of Finland; the President of the French Republic; His Majesty the King of Great Britain, Ireland and the British Dominions Beyond the Seas, Emperor of India; the President of the Hellenic Republic; His Most Serene Highness the Regent of the Kingdom of Hungary; His Majesty the King of Italy; His Majesty the Emperor of Japan; Her Royal Highness the Grand Duchess of Luxemburg; His Majesty the Sultan of Morocco; His Most Serene Highness the Prince of Monaco; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; the President of the Polish Republic in the name of Poland and of the Free City of Danzig; the President of the Portuguese Republic; His Majesty the King of Rumania; His Majesty the King of Sweden; the Federal Council of the Swiss Confederation; the States of Syria and the Great Lebanon; the President of the Czechoslovak Republic; His Highness the Bey of Tunis—

Equally animated by the desire to protect in as efficacious and uniform a manner as possible the rights of authors as to their literary and artistic works,

Have resolved to revise and complete the Act signed at Berlin on November 13, 1908.

They have, consequently, named as their plenipotentiaries:

[Here follows list of names of plenipotentiaries.]

Who, being thereunto duly authorized, have agreed upon the following:

ARTICLE 1

The Countries to which the present Convention applies shall be constituted into a Union for the protection of the rights of authors in their literary and artistic works.

ARTICLE 2

(1) The term "literary and artistic works" shall include all productions in the literary, scientific, and artistic domain, whatever the

⁴⁶ Official text is in French; this translation is reprinted from S. Ex. Doc. E, 73d Cong., 2d sess. The convention was submitted to the Senate Feb. 19, 1934. For list of ratifications and adhesions, see League of Nations Treaty Series, vol. cxxiii, pp. 235-239.

mode or form of expression, such as: books, pamphlets, and other writings; lectures, addresses, sermons and other works of like nature; dramatic or dramatico-musical works; choreographic works and pantomimes, the staging (*mise en scène*) of which is fixed in writing or otherwise; musical compositions with or without words; drawings, paintings; works of architecture and sculpture; engravings and lithographs; illustrations; geographical charts; plans, sketches, and plastic works relating to geography, topography, architecture, or the sciences.

(2) Translations, adaptations, arrangements of music and other reproductions transformed from a literary or artistic work, as well as compilations from different works, shall be protected as original works without prejudice to the rights of the author of the original work.

(3) The countries of the Union shall be bound to secure protection in the case of the works mentioned above.

(4) Works of art applied to industry shall be protected so far as the domestic legislation of each country allows.

ARTICLE 2 BIS

(1) The authority is reserved to the domestic legislation of each country of the Union to exclude, partially or wholly, from the protection provided by the preceding Article political discourses or discourses pronounced in judicial debates.

(2) There is also reserved to the domestic legislation of each country of the Union authority to enact the conditions under which such lectures, addresses, sermons and other works of like nature may be reproduced by the press. Nevertheless, the author alone shall have the right to bring such works together in a compilation.

ARTICLE 3

The present convention shall apply to photographic works and to works obtained by any process analogous to photography. The countries of the Union shall be bound to guarantee protection to such works.

ARTICLE 4

(1) Authors within the jurisdiction of one of the countries of the Union shall enjoy for their works, whether unpublished or published for the first time in one of the countries of the Union, such rights, in the countries other than the country of origin of the work, as the respective laws now accord or shall hereafter accord to nationals, as well as the rights specially accorded by the present Convention.

(2) The enjoyment and the exercise of such rights shall not be subject to any formality; such enjoyment and such exercise are independent of the existence of protection in the country of origin of the work. Consequently, apart from the stipulations of the present

Convention, the extent of the protection, as well as the means of redress guaranteed to the author to safeguard his rights, shall be regulated exclusively according to the legislation of the country where the protection is claimed.

(3) The following shall be considered as the country of origin of the work: for unpublished works, the country to which the author belongs; for published works, the country of first publication, and for works published simultaneously in several countries of the Union, the country among them whose legislation grants the shortest term of protection. For works published simultaneously in a country outside of the Union and in a country within the Union, it is the latter country which shall be exclusively considered as the country of origin.

(4) By "published works" ("*oeuvres publiées*") must be understood, according to the present Convention, works which have been issued ("*oeuvres éditées*"). The representation of a dramatic or dramatico-musical work, the performance of a musical work, the exhibition of a work of art and the construction of a work of architecture shall not constitute publication.

ARTICLE 5

Authors within the jurisdiction of one of the countries of the Union who publish their works for the first time in another country of the Union, shall have in this latter country the same rights as national authors.

ARTICLE 6

(1) Authors not within the jurisdiction of any one of the countries of the Union, who publish their works for the first time in one of the Union countries, shall enjoy in such Union country the same rights as national authors, and in the other countries of the Union the rights accorded by the present Convention.

(2) Nevertheless, when a country outside of the Union does not protect in an adequate manner the works of authors within the jurisdiction of one of the countries of the Union, this latter Union country may restrict the protection for the works of authors who are, at the time of the first publication of such works, within the jurisdiction of the non-union country and are not actually domiciled in one of the countries of the Union.

(3) Any restriction, established by virtue of the preceding paragraph, shall not prejudice the rights which an author may have acquired in a work published in one of the countries of the Union before the putting into effect of this restriction.

(4) The countries of the Union which, by virtue of the present article, restrict the protection of the rights of authors, shall notify

the fact to the Government of the Swiss Confederation by a written declaration indicating the countries in whose case protection is restricted, and indicating also the restrictions to which the rights of authors within the jurisdiction of such country are subjected. The Government of the Swiss Confederation shall immediately communicate this fact to all the countries of the Union.

ARTICLE 6 BIS

(1) Independently of the author's copyright, and even after assignment of the said copyright, the author shall retain the right to claim authorship of the work, as well as the right to object to every deformation, mutilation or other modification of the said work, which may be prejudicial to his honor or to his reputation.

(2) It is left to the national legislation of each of the countries of the Union to establish the conditions for the exercise of these rights. The means for safeguarding them shall be regulated by the legislation of the country where protection is claimed.

ARTICLE 7

(1) The duration of the protection granted by the present Convention shall comprise the life of the author and fifty years after his death.

(2) In case this period of protection, however, should not be adopted uniformly by all the countries of the Union, its duration shall be regulated by the law of the country where protection is claimed, and it can not exceed the term fixed in the country of origin of the work. The countries of the Union will consequently not be required to apply the provision of the preceding paragraph beyond the extent to which it agrees with their domestic law.

(3) For photographic works and works obtained by a process analogous to photography; for posthumous works; for anonymous or pseudonymous works, the term of protection shall be regulated by the law of the country where protection is claimed, but this term shall not exceed the term fixed in the country of origin of the work.

ARTICLE 7 BIS

(1) The term of copyright protection belonging in common to collaborators in a work shall be calculated according to the date of the death of the last survivor of the collaborators.

(2) Persons within the jurisdiction of countries which grant a shorter period of protection than that provided in paragraph 1 can not claim in the other countries of the Union a protection of longer duration.

(3) In any case the term of protection shall not expire before the death of the last survivor of the collaborators.

ARTICLE 8

Authors of unpublished works within the jurisdiction of one of the countries of the Union, and authors of works published for the first time in one of these countries, shall enjoy in the other countries of the Union during the whole term of the right in the original work the exclusive right to make or to authorize the translation of their works.

ARTICLE 9

(1) Serial stories, tales and all other works, whether literary, scientific, or artistic, whatever may be their subject, published in newspapers or periodicals of one of the countries of the Union, may not be reproduced in the other countries without the consent of the authors.

(2) Articles of current economic, political, or religious discussion may be reproduced by the press if their reproduction is not expressly reserved. But the source must always be clearly indicated; the sanction of this obligation shall be determined by the legislation of the country where the protection is claimed.

(3) The protection of the present Convention shall not apply to news of the day or to miscellaneous news having the character merely of press information.

ARTICLE 10

As concerns the right of borrowing lawfully from literary or artistic works for use in publications intended for instruction or having a scientific character, or for chrestomathies, the provisions of the legislation of the countries of the Union and of the special treaties existing or to be concluded between them shall govern.

ARTICLE 11

(1) The stipulations of the present Convention shall apply to the public representation of dramatic or dramatico-musical works and to the public performance of musical works, whether these works are published or not.

(2) Authors of dramatic or dramatico-musical works shall be protected, during the term of their copyright in the original work, against the unauthorized public representation of a translation of their works.

(3) In order to enjoy the protection of this article, authors in publishing their works shall not be obliged to prohibit the public representation or public performance of them.

ARTICLE 11 Bis

(1) The authors of literary and artistic works shall enjoy the exclusive right to authorize the communication of their works to the public by broadcasting.

(2) It belongs to the national legislatures of the countries of the Union to regulate the conditions for the exercise of the right declared in the preceding paragraph, but such conditions shall have an effect strictly limited to the country which establishes them. They can not in any case adversely affect the moral right of the author, nor the right which belongs to the author of obtaining an equitable remuneration fixed, in default of an amicable agreement, by competent authority.

ARTICLE 12

Among the unlawful reproductions to which the present Convention applies shall be specially included indirect, unauthorized appropriations of a literary or artistic work, such as adaptations, arrangements of music, transformations of a romance or novel or of a poem into a theatrical piece and vice-versa, etc., when they are only the reproduction of such work in the same form or in another form with non-essential changes, additions or abridgments and without presenting the character of a new, original work.

ARTICLE 13

(1) Authors of musical works shall have the exclusive right to authorize: (1) the adaptation of these works to instruments serving to reproduce them mechanically; (2) the public performance of the same works by means of these instruments.

(2) The limitations and conditions relative to the application of this article shall be determined by the domestic legislation of each country in its own case; but all limitations and conditions of this nature shall have an effect strictly limited to the country which shall have adopted them.

(3) The provisions of paragraph 1 shall have no retroactive effect, and therefore shall not be applicable in a country of the Union to works which, in that country, shall have been lawfully adapted to mechanical instruments before the going into force of the Convention signed at Berlin, November 13, 1908; and, in the case of a country which has acceded to the Union since that date, or shall accede to it in the future, then when the works have been adapted to mechanical instruments before the date of its accession.

(4) Adaptations made by virtue of paragraphs 2 and 3 of this article and imported, without the authorization of the parties interested, into a country where they would not be lawful, shall be liable to seizure there.

ARTICLE 14

(1) Authors of literary, scientific or artistic works shall have the exclusive right to authorize the reproduction, adaptation, and public representation of their works by means of the cinematograph.

(2) Cinematographic productions shall be protected as literary or artistic works when the author shall have given to the work an original character. If this character is lacking, the cinematographic production shall enjoy the same protection as photographic works.

(3) Without prejudice to the rights of the author of the work reproduced or adapted, the cinematographic work shall be protected as an original work.

(4) The preceding provisions apply to the reproduction or production obtained by any other process analogous to cinematography.

ARTICLE 15

(1) In order that the authors of the works protected by the present Convention may be considered as such, until proof to the contrary, and be admitted consequently before the courts of the various countries of the Union to proceed against infringers, it shall suffice that the author's name be indicated upon the work in the usual manner.

(2) For anonymous or pseudonymous works, the publisher whose name is indicated upon the work shall be entitled to protect the rights of the author. He shall, without other proof, be considered the legal representative of the anonymous or pseudonymous author.

ARTICLE 16

(1) All infringing works may be seized by the competent authorities of the countries of the Union where the original work has a right to legal protection.

(2) Seizure may also be made in these countries of reproductions which come from a country where the copyright on the work has terminated, or where the work has not been protected.

(3) The seizure shall take place in conformity with the domestic legislation of each country.

ARTICLE 17

The provisions of the present Convention may not prejudice in any way the right which belongs to the Government of each of the countries of the Union to permit, to supervise, or to forbid, by means of legislation or of domestic police, the circulation, the representation or the exhibition of every work or production in regard to which competent authority may have to exercise this right.

ARTICLE 18

(1) The present Convention shall apply to all works which, at the time it goes into effect, have not fallen into the public domain of their country of origin because of the expiration of the term of protection.

(2) But if a work by reason of the expiration of the term of protection which was previously secured for it has fallen into the public domain of the country where protection is claimed, such work shall not be protected anew.

(3) This principle shall be applied in accordance with the stipulations to that effect contained in the special Conventions either existing or to be concluded between countries of the Union, and in default of such stipulations, its application shall be regulated by each country in its own case.

(4) The preceding provisions shall apply equally in the case of new accessions to the Union and where the protection would be extended by the application of Article 7 or by the abandonment of reservations.

ARTICLE 19

The provisions of the present Convention shall not prevent a claim for the application of more favorable provisions which may be enacted by the legislation of a country of the Union in favor of foreigners in general.

ARTICLE 20

The governments of the countries of the Union reserve the right to make between themselves special treaties, when these treaties would confer upon authors more extended rights than those accorded by the Union, or when they contain other stipulations not conflicting with the present Convention. The provisions of existing treaties which answer the aforesaid conditions shall remain in force.

ARTICLE 21

(1) The international office instituted under the name of "Bureau of the International Union for the Protection of Literary and Artistic Works" ("Bureau de l'Union internationale pour la protection des oeuvres littéraires et artistiques") shall be maintained.

(2) This Bureau is placed under the high authority of the Government of the Swiss Confederation, which controls its organization and supervises its working.

(3) The official language of the Bureau shall be French.

ARTICLE 22

(1) The International Bureau shall bring together, arrange and publish information of every kind relating to the protection of the rights of authors in their literary and artistic works. It shall study questions of mutual utility interesting to the Union, and edit, with the aid of documents placed at its disposal by the various administrations, a periodical in the French language, treating questions concerning the purpose of the Union. The governments of the countries of the Union reserve the right to authorize the Bureau by common accord to publish an edition in one or more other languages, in case experience demonstrates the need.

(2) The International Bureau must hold itself at all times at the disposal of members of the Union to furnish them, in relation to questions concerning the protection of literary and artistic works, the special information of which they have need.

(3) The Director of the International Bureau shall make an annual report on his administration, which shall be communicated to all the members of the Union.

ARTICLE 23

(1) The expenses of the Bureau of the International Union shall be shared in common by the countries of the Union. Until a new decision, they may not exceed one hundred and twenty thousand Swiss francs per year. This sum may be increased when needful by the unanimous decision of one of the Conferences provided for in Article 24.

(2) To determine the part of this sum total of expenses to be paid by each of the countries, the countries of the Union and those which later adhere to the Union shall be divided into six classes each contributing in proportion to a certain number of units to wit:

	<i>Units</i>
1st class	25
2nd class	20
3d class	15
4th class	10
5th class	5
6th class	3

(3) These coefficients are multiplied by the number of countries of each class, and the sum of the products thus obtained furnishes the number of units by which the total expense is to be divided. The quotient gives the amount of the unit of expense.

(4) Each country shall declare, at the time of its accession, in which of the above-mentioned classes it demands to be placed, but

it may always ultimately declare that it intends to be placed in another class.

(5) The Swiss Administration shall prepare the budget of the Bureau and superintend its expenditures, make necessary advances and draw up the annual account, which shall be communicated to all the other administrations.

ARTICLE 24

(1) The present Convention may be subjected to revision with a view to the introduction of amendments calculated to perfect the system of the Union.

(2) Questions of this nature, as well as those which from other points of view pertain to the development of the Union, shall be considered in the Conferences which will take place successively in the countries of the Union between the delegates of the said countries. The administration of the country where a Conference is to be held shall, with the cooperation of the International Bureau, prepare the agenda of the same. The Director of the Bureau shall attend the meetings of the Conferences and take part in the discussions without a deliberative voice.

(3) No change in the present Convention shall be valid for the Union except by the unanimous consent of the countries which compose it.

ARTICLE 25

(1) The countries outside of the Union which assure legal protection of the rights which are the object of the present Convention, may accede to it upon their request.

(2) Such accession shall be communicated in writing to the Government of the Swiss Confederation and by the latter to all the others.

(3) The full right of adhesion to all the clauses and admission to all the advantages stipulated in the present Convention shall be implied by such accession and it shall go into effect one month after the sending of the notification by the Government of the Swiss Confederation to the other countries of the Union, unless a later date has been indicated by the adhering country. Nevertheless, such accession may contain an indication that the adhering country intends to substitute, provisionally at least, for Article 8 concerning translations, the provisions of Article 5 of the Convention of the Union of 1886, revised at Paris in 1896, it being of course understood that these provisions relate only to translations into the language or languages of the country.

ARTICLE 26

(1) Each of the countries of the Union may, at any time, notify in writing the Government of the Swiss Confederation that the

present Convention shall be applicable to all or to part of its colonies, protectorates, territories under mandate or all other territories subject to its sovereignty or to its authority, or all territories under suzerainty, and the Convention shall then apply to all the territories designated in the notification. In default of such notification, the Convention shall not apply to such territories.

(2) Each of the countries of the Union may, at any time, notify in writing the Government of the Swiss Confederation that the present Convention shall cease to be applicable to all or to part of the territories which were the object of the notification provided for by the preceding paragraph, and the Convention shall cease to apply in the territories designated in such notification twelve months after receipt of the notification addressed to the Government of the Swiss Confederation.

(3) All the notifications made to the Government of the Swiss Confederation, under the provisions of paragraphs 1 and 2 of this article, shall be communicated by that Government to all the countries of the Union.

ARTICLE 27

(1) The present Convention shall replace in the relations between the countries of the Union the Convention of Berne of September 9, 1886 and the acts by which it has been successively revised. The acts previously in effect shall remain applicable in the relations with the countries which shall not have ratified the present Convention.

(2) The countries in whose name the present Convention is signed may still retain the benefit of the reservations which they have previously formulated on condition that they make such a declaration at the time of the deposit of the ratifications.

(3) Countries which are at present parties to the Union, but in whose name the present Convention has not been signed, may at any time adhere to it. They may in such case benefit by the provisions of the preceding paragraph.

ARTICLE 28

(1) The present Convention shall be ratified, and the ratifications shall be deposited at Rome not later than July 1, 1931.

(2) It shall go into effect between the countries of the Union which have ratified it one month after that date. However, if, before that date, it has been ratified by at least six countries of the Union it shall go into effect as between those countries of the Union one month after the deposit of the sixth ratification has been notified to them by the Government of the Swiss Confederation and, for the countries of the Union which shall later ratify, one month after the notification of each such ratification.

(3) Countries that are not within the Union may, until August 1, 1931, enter the Union, by means of adhesion, either to the Convention signed at Berlin November 13, 1908, or to the present Convention. After August 1, 1931, they can adhere only to the present Convention.

ARTICLE 29

(1) The present Convention shall remain in effect for an indeterminate time, until the expiration of one year from the day when denunciation of it shall have been made.

(2) This denunciation shall be addressed to the Government of the Swiss Confederation. It shall be effective only as regards the country which shall have made it, the Convention remaining in force for the other countries of the Union.

ARTICLE 30

(1) The countries which introduce into their legislation the term of protection of fifty years provided for by Article 7, paragraph 1, of the present Convention, shall make it known to the Government of the Swiss Confederation by a written notification which shall be communicated at once by that Government to all the other countries of the Union.

(2) It shall be the same for such countries as shall renounce any reservations made or maintained by them by virtue of Articles 25 and 27.

In faith whereof, the respective Plenipotentiaries have signed the present Convention.

DONE at Rome, the second of June, one thousand nine hundred and twenty-eight, in a single copy, which shall be deposited in the archives of the Royal Italian Government. One copy, properly certified, shall be sent through diplomatic channels to each of the countries of the Union.

For Germany:

C. VON NEURATH.
 GEORG KLAUER.
 WILHELM MACKEBEN.
 EBERHARD NEUGEBAUER.
 MAXIMILIAN MINTZ.
 MAX VON SCHILLINGS.

For Austria:

DR. AUGUST HESSE.

For Belgium:

C^TE. DELLA FAILLE DE LEVERGHEM.
 WAUWERMANS.

For the United States of Brazil:

F. PESSOA DE QUEIROZ.

J. S. DA FONSECA HERMES JR.

For Bulgaria:

G. RADEFF.

For Denmark:

I. C. W. KRUSE.

F. GRAAE.

For the Free City of Danzig:

STEFAN SIECZKOWSKI.

For Spain:

FRANCISCO ALVAREZ-OSSORIO.

For Estonia:

K. TOFER.

For Finland:

EMILE SETÄLÄ.

ROLF THESLEFF.

GEORGE WINCKELMANN.

For France:

BEAUMARCHAIS.

MARCEL PLAISANT.

P. GRUNEBaum-BALLIN.

CN. DROUETS.

GEORGES MAILLARD.

ANDRÉ RIVOIRE.

ROMAIN COOLUS.

A. MESSEAGER.

For Great Britain and Northern Ireland:

S. J. CHAPMAN.

W. S. JARRATT.

A. J. MARTIN.

For Canada:

PHILIPPE ROY.

For Australia:

W. HARRISON MOORE.

For New Zealand:

S. G. RAYMOND.

For the Irish Free State:

[No signature.]

For India:

G. GRAHAM DIXON.

For the Hellenic Republic:

N. MAVROUDIS.

For Hungary:

ANDRE DE HORY.

For Italy:

VITTORIO SCIALOJA.
 E. PIOLA CASELLI.
 VICENZO MORELLO.
 AMEDEO GIANNINI.
 DOMENICO BARONE.
 EMILIO VENEZIAN.
 A. JANNONI SEBASTIANINI.
 MARIO GHIRON.

For Japan:

M. MATSUDA.
 T. AKAGI.

For Luxembourg:

BRUCK.

For Morocco:

BEAUMARCHAIS.

For Monaco:

R. SAUVAGE.

For Norway:

ARNOLD RAESTAD.

For The Netherlands:

A. VAN DER GOLS.

For Poland:

STEFAN SIECZKOWSKI.
 FRÉDÉRIC ZOLL.

For Portugal:

ENRIQUE TRINDADE COELHO.

For Rumania:

THEODORE SOLACOLO.

For Sweden:

E. MARKS VON WÜRTEMBERG.
 ERIK LIDFORSS.

For Switzerland:

WAGNIÈRE.
 W. KRAFT.
 A. STREULI.

For Syria and Great Lebanon:

BEAUMARCHAIS.

For Czechoslovakia:

DR. V. MASTNY.
 PROF. KAREL HERMANN-OTAVSKY.

For Tunis:

BEAUMARCHAIS.

ADHERENCE OF THE UNITED STATES TO THE SLAVERY CONVENTION,
SIGNED AT GENEVA, SEPTEMBER 25, 1926⁴⁷

550.48 B 1/67

*The Secretary General of the League of Nations (Drummond) to the
Secretary of State*

C.L.48(b).1927.VI

Geneva, *May 19, 1927.*

[Received June 13.]

SIR: The Assembly of the League of Nations, at its Seventh Ordinary Session, approved a Slavery Convention bearing the date of the 25th September, 1926, which is deposited in the archives of the League of Nations.

By Article 11 of the Convention the Secretary-General of the League is requested to "bring the present Convention to the notice of States which have not signed it, including States which are not Members of the League of Nations, and invite them to accede thereto".

I have accordingly the honour to enclose a certified copy of the Convention, and to invite the attention of the United States Government to the third paragraph of the above-mentioned Article which provides that "a State desiring to accede to the Convention shall notify its intention in writing to the Secretary-General of the League of Nations and transmit to him the instrument of accession, which shall be deposited in the archives of the League".

I may add that the Secretariat will be glad to give every assistance in its power to your Government as regards the necessary formalities in connection with the deposit of its act of accession to the Convention.

I have [etc.]

ERIC DRUMMOND

550.48 B 1/110a

The Secretary of State to President Coolidge

THE PRESIDENT: The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to accession by this Government, if his judgment approve thereof, a certified copy of the Slavery Convention signed at Geneva on September 25, 1926.⁴⁸

There are thirty-six signatories to the Slavery Convention which has been ratified or acceded to by Australia, Austria, Belgium, the British Empire, Bulgaria, Denmark, Egypt, Finland, Haiti, Hun-

⁴⁷ For previous correspondence concerning the slavery convention, see *Foreign Relations*, 1926, vol. I, pp. 247 ff.

⁴⁸ *Infra.*

gary, India, Latvia, Monaco, the Netherlands, New Zealand, Nicaragua, Norway, Portugal, Spain, South Africa, Sweden and the Sudan.

The Convention was not signed on behalf of the United States. On May 19, 1927, however, the Secretary General of the League of Nations addressed a note to the Government of the United States in accordance with Article 11 of the Convention which provides that the Secretary General shall bring the Convention to the notice of States which have not signed it, including States which are not members of the League of Nations, and invite them to accede thereto.

In Article 11 of the Convention signed at St. Germain-en-Laye on September 10, 1919,⁴⁹ Revising the General Act of Berlin of February 26, 1885, and the General Act and Declaration of Brussels of July 2, 1890, the Contracting Parties agreed that they would endeavor to secure the complete suppression of slavery in all its forms and of the slave trade by land and sea. The United States is a Party to the General Act of Brussels of July 2, 1890, for the Repression of the African Slave Trade⁵⁰ and is a signatory of but has not ratified the Revising Convention of September 10, 1919.

The purpose of the Convention herewith submitted is to find a means for giving practical effect throughout the world to the intention of the Contracting Parties to suppress the slave trade and slavery as expressed in respect of certain territories in Africa in the international Acts of earlier date. It embraces an undertaking on their part to take appropriate measures in their respective territories to carry out this intention and likewise to take all necessary measures to prevent compulsory or enforced labor from developing into conditions analogous to slavery.

By a provision in Article 3 the High Contracting Parties undertake to negotiate as soon as possible a general convention with regard to the slave trade, which will give them rights and impose upon them duties of the same nature as those provided for in certain Articles of the Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War, signed at Geneva on June 17, 1925.⁵¹ The latter Convention was submitted to the Senate by the President on January 12, 1926, with a view to receiving the advice and consent of that body to ratification, but has not yet been acted upon by the Senate.

Articles 7, 10, 11 and 12 of the Slavery Convention contain certain references to the League of Nations. Under Article 7, the parties to the Convention undertake to communicate to the Secretary General

⁴⁹ *Post*, p. 433.

⁵⁰ Malloy, *Treaties*, 1776-1909, vol. II, p. 1964.

⁵¹ *Foreign Relations*, 1925, vol. I, p. 61.

of the League of Nations any laws and regulations which they may enact with a view to the application of the provisions of the Convention; Article 10 provides that notices of denunciation of the Convention shall be given in writing to the Secretary General of the League of Nations who will communicate certified copies to other parties; Article 11 provides that States desiring to accede to the Convention shall transmit their instruments of accession to the Secretary General, that they shall be deposited in the archives of the League, and that the Secretary General shall transmit certified copies to the other Parties to the Convention. Article 12 provides that instruments of ratification of the Convention shall be deposited in the office of the Secretary General. As the functions exercised by the Secretary General of the League of Nations under these Articles are merely those of a depository and of a transmitting agency, it is not considered that it would be necessary that accession to the Convention by the United States be made subject to a reservation indicating the position of this Government with respect to the League. If, however, the Senate should consider that a reservation on this point is desirable one might be made.

Considering that the purposes sought to be attained by the Slavery Convention are in accord with modern thought and humane measures taken by civilized peoples with a view to the suppression of slavery and conditions analogous to slavery, it is believed that the United States should cooperate with other powers in the effort to eradicate these evils throughout the world, and that its cooperation might well be expressed through accession to the Convention. Accordingly, it is recommended that, if this course meets with approval, the Senate be requested to take suitable action advising and consenting to accession on the part of the United States to the Slavery Convention of September 25, 1926.⁵²

Respectfully submitted,

FRANK B. KELLOGG

WASHINGTON, *May 22, 1928.*

Treaty Series No. 778

*Slavery Convention Signed at Geneva, September 25, 1926*⁵³

Albania, Germany, Austria, Belgium, the British Empire, Canada, the Commonwealth of Australia, the Union of South Africa, the

⁵² On May 22, 1928, President Coolidge submitted to the Senate the above recommendation by the Secretary of State, together with the convention, and stated: "I concur in the recommendation by the Secretary of State." See *Congressional Record*, Feb. 25, 1929, vol. 70, p. 4237.

⁵³ In English and French; French text not printed. Adherence advised by the Senate, with reservation, Feb. 25, 1929; adherence declared by the President, Mar. 1, 1929; declaration of adherence of the United States deposited at Geneva, Mar. 21, 1929; proclaimed by the President, Mar. 23, 1929.

Dominion of New Zealand, and India, Bulgaria, China, Colombia, Cuba, Denmark, Spain, Estonia, Abyssinia, Finland, France, Greece, Italy, Latvia, Liberia, Lithuania, Norway, Panama, the Netherlands, Persia, Poland, Portugal, Roumania, the Kingdom of the Serbs, Croats and Slovenes, Sweden, Czechoslovakia and Uruguay,

Whereas the signatories of the General Act of the Brussels Conference of 1889-90 declared that they were equally animated by the firm intention of putting an end to the traffic in African slaves;

Whereas the signatories of the Convention of Saint-Germain-en-Laye of 1919 to revise the General Act of Berlin of 1885 and the General Act and Declaration of Brussels of 1890 affirmed their intention of securing the complete suppression of slavery in all its forms and of the slave trade by land and sea;

Taking into consideration the report of the Temporary Slavery Commission appointed by the Council of the League of Nations on June 12th, 1924;

Desiring to complete and extend the work accomplished under the Brussels Act and to find a means of giving practical effect throughout the world to such intentions as were expressed in regard to slave trade and slavery by the signatories of the Convention of Saint-Germain-en-Laye, and recognising that it is necessary to conclude to that end more detailed arrangements than are contained in that Convention;

Considering, moreover, that it is necessary to prevent forced labour from developing into conditions analogous to slavery,

Have decided to conclude a Convention and have accordingly appointed as their Plenipotentiaries:

[Here follows list of names of plenipotentiaries.]

Who, having communicated their full powers, have agreed as follows:

ARTICLE 1

For the purpose of the present Convention, the following definitions are agreed upon:

(1) Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

(2) The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.

ARTICLE 2

The High Contracting Parties undertake, each in respect of the territories placed under its sovereignty, jurisdiction, protection,

suzerainty or tutelage, so far as they have not already taken the necessary steps:

- (a) To prevent and suppress the slave trade;
- (b) To bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms.

ARTICLE 3

The High Contracting Parties undertake to adopt all appropriate measures with a view to preventing and suppressing the embarkation, disembarkation and transport of slaves in their territorial waters and upon all vessels flying their respective flags.

The High Contracting Parties undertake to negotiate as soon as possible a general Convention with regard to the slave trade which will give them rights and impose upon them duties of the same nature as those provided for in the Convention of June 17th, 1925, relative to the International Trade in Arms (Articles 12, 20, 21, 22, 23, 24, and paragraphs 3, 4 and 5 of Section II of Annex II), with the necessary adaptations, it being understood that this general Convention will not place the ships (even of small tonnage) of any High Contracting Parties in a position different from that of the other High Contracting Parties.

It is also understood that, before or after the coming into force of this general Convention, the High Contracting Parties are entirely free to conclude between themselves, without, however, derogating from the principles laid down in the preceding paragraph, such special agreements as, by reason of their peculiar situation, might appear to be suitable in order to bring about as soon as possible the complete disappearance of the slave trade.

ARTICLE 4

The High Contracting Parties shall give to one another every assistance with the object of securing the abolition of slavery and the slave trade.

ARTICLE 5

The High Contracting Parties recognise that recourse to compulsory or forced labour may have grave consequences and undertake, each in respect of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage, to take all necessary measures to prevent compulsory or forced labour from developing into conditions analogous to slavery.

It is agreed that:

- (1) Subject to the transitional provisions laid down in paragraph
- (2) below, compulsory or forced labour may only be exacted for public purposes.

(2) In territories in which compulsory or forced labour for other than public purposes still survives, the High Contracting Parties shall endeavour progressively and as soon as possible to put an end to the practice. So long as such forced or compulsory labour exists, this labour shall invariably be of an exceptional character, shall always receive adequate remuneration, and shall not involve the removal of the labourers from their usual place of residence.

(3) In all cases, the responsibility for any recourse to compulsory or forced labour shall rest with the competent central authorities of the territory concerned.

ARTICLE 6

Those of the High Contracting Parties whose laws do not at present make adequate provision for the punishment of infractions of laws and regulations enacted with a view to giving effect to the purposes of the present Convention undertake to adopt the necessary measures in order that severe penalties may be imposed in respect of such infractions.

ARTICLE 7

The High Contracting Parties undertake to Communicate to each other and to the Secretary-General of the League of Nations any laws and regulations which they may enact with a view to the application of the provisions of the present Convention.

ARTICLE 8

The High Contracting Parties agree that disputes arising between them relating to the interpretation or application of this Convention shall, if they cannot be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. In case either or both of the States Parties to such a dispute should not be parties to the Protocol of December 16th, 1920, relating to the Permanent Court of International Justice, the dispute shall be referred, at the choice of the Parties and in accordance with the constitutional procedure of each State, either to the Permanent Court of International Justice or to a court of arbitration constituted in accordance with the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, or to some other court of arbitration.

ARTICLE 9

At the time of signature or of ratification or of accession, any High Contracting Party may declare that its acceptance of the present Convention does not bind some or all of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage in

respect of all or any provisions of the Convention; it may subsequently accede separately on behalf of any one of them or in respect of any provision to which any one of them is not a party.

ARTICLE 10

In the event of a High Contracting Party wishing to denounce the present Convention, the denunciation shall be notified in writing to the Secretary-General of the League of Nations, who will at once communicate a certified true copy of the notification to all the other High Contracting Parties, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying State, and one year after the notification has reached the Secretary-General of the League of Nations.

Denunciation may also be made separately in respect of any territory placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage.

ARTICLE 11

The present Convention, which will bear this day's date and of which the French and English texts are both authentic, will remain open for signature by the States Members of the League of Nations until April 1st, 1927.

The Secretary-General of the League of Nations will subsequently bring the present Convention to the notice of States which have not signed it, including States which are not Members of the League of Nations, and invite them to accede thereto.

A State desiring to accede to the Convention shall notify its intention in writing to the Secretary-General of the League of Nations and transmit to him the instrument of accession, which shall be deposited in the archives of the League.

The Secretary-General shall immediately transmit to all the other High Contracting Parties a certified true copy of the notification and of the instrument of accession, informing them of the date on which he received them.

ARTICLE 12

The present Convention will be ratified and the instruments of ratification shall be deposited in the office of the Secretary-General of the League of Nations. The Secretary-General will inform all the High Contracting Parties of such deposit.

The Convention will come into operation for each State on the date of the deposit of its ratification or of its accession.

In faith whereof the Plenipotentiaries have signed the present Convention.

DONE at Geneva the twenty-fifth day of September, one thousand nine hundred and twenty-six, in one copy, which will be deposited in the archives of the League of Nations. A certified copy shall be forwarded to each signatory State.

D. DINO	<i>Albania</i>
DR. CARL VON SCHUBERT	<i>Germany</i>
EMERICH PFLÜGL	<i>Austria</i>
L. DE BROUCKÈRE	<i>Belgium</i>

British Empire

I declare that my signature does not bind India or any British Dominion which is a separate member of the League of Nations and does not separately sign or accede to the Convention.

CECIL

GEORGE EULAS FOSTER	<i>Canada</i>
J. G. LATHAM	<i>Australia</i>
J. S. SMIT	<i>Union of South Africa *</i>
J. C. PARR	<i>New Zealand</i>

India

Under the terms of Article 9 of this Convention I declare that my signature is not binding as regards the enforcement of the provisions of Article 2, subsection (b), Articles 5, 6 and 7 of this Convention upon the following territories; namely, in Burma: the Naga tracts lying West and South of the Hukawng Valley, bounded on the North and West by the Assam boundary, on the East by the Nanphuk River and on the South by the Singaling Hkamti and the Somra Tracts; in Assam, the Sadiya and Balipara Frontier Tracts, the tribal area to the East of the Naga Hills District, up to the Burma boundary, and a small tract in the South of the Lushai Hills district; nor on the territories in India of any Prince or Chief under the *suzerainty* of His Majesty.

I also declare that my signature to the Convention is not binding in respect of Article 3 in so far as that Article may require India to enter into any Convention whereby vessels, by reason of the fact that they are owned, fitted out or commanded by Indians, or of the fact that one half of the crew is Indian, are classified as native vessels, or are denied any privilege, right or immunity enjoyed by similar vessels of other States Signatories of the Covenant or are made subject to any liability or disability to which similar ships of such other States are not subject.

W. H. VINCENT

*This signature applies to South-West Africa. [Footnote in the original.]

D. MIKOFF	<i>Bulgaria</i>
CHAO-HSIN CHU	<i>China</i>
FRANCISCO JOSÉ URRUTIA	<i>Colombia</i>
ARISTIDES DE AGUERO BETHANCOURT	<i>Cuba</i>
HERLUF ZAHLE	<i>Denmark</i>

Spain

For Spain and the Spanish Colonies, with the exception of the Spanish Protectorate of Morocco
MAURICIO LOPEZ ROBERTS

MARQUIS DE LA TORREHERMOSA

J. LAIDONER	<i>Estonia</i>
GUETATCHOU	<i>Abyssinia</i>
MAKONNEN	
KENTIBA GEBROU	
ATO TASFAE	
RAFAEL ERICH	<i>Finland</i>
B. CLAUZEL	<i>France</i>
D. CACLAMANOS	<i>Greece</i>
V. DENDRAMIS	
VITTORIO SCIALOJA	<i>Italy</i>
CHARLES DUZMANS	<i>Latvia</i>

Liberia

Subject to ratification by the Liberian Senate
BOH R. LEHMANN

VENCESLAS SIDZIKAUSKAS	<i>Lithuania</i>
FRIDTJOF NANSEN	<i>Norway</i>
EUSEBIO A. MORALES	<i>Panama</i>
W. F. VAN LENNEP	<i>Netherlands</i>

Persia

Ad referendum and interpreting Article 3 as without power to compel Persia to bind herself by any arrangement or convention which would place her ships of whatever tonnage in the category of native vessels provided for by the Convention on the Trade in Arms ⁵⁴

PRINCE ARFA

AUGUSTE ZALESKI	<i>Poland</i>
AUGUSTO DE VASCONCELLOS	<i>Portugal</i>
N. TITULESCO	<i>Roumania</i>
M. JOVANOVITCH	<i>Kingdom of the Serbs, Croats and Slovenes</i>

⁵⁴ Translation made by the Secretariat of the League of Nations.

EINAR HENNINGS

Sweden

FERDINAND VEVERKA

Czechoslovakia

B. FERNANDEZ Y MEDINA

Uruguay

[On February 25, 1929, adherence to the above convention by the United States was advised by the Senate, subject to the following reservation:

“That the Government of the United States, adhering to its policy of opposition to forced or compulsory labor except as a punishment for crime of which the person concerned has been duly convicted, adheres to the Convention except as to the first subdivision of the second paragraph of article five, which reads as follows:

“(1) Subject to the transitional provisions laid down in paragraph (2) below, compulsory or forced labor may only be exacted for public purposes.”]

RATIFICATION BY THE UNITED STATES OF THE CONVENTION RELATING TO THE LIQUOR TRAFFIC IN AFRICA, SIGNED AT SAINT GERMAIN-EN-LAYE, SEPTEMBER 10, 1919

511.4 C 1/31a

The Secretary of State to President Coolidge

THE PRESIDENT: The undersigned, the Secretary of State, has the honor to lay before the President with a view to its transmission to the Senate to receive the advice and consent of that body to ratification, if his judgment approve thereof, a certified copy of the Convention Relating to the Liquor Traffic in Africa which was signed at Saint Germain-en-Laye on September 10, 1919 on behalf of the United States, Belgium, the British Empire, France, Italy, Japan and Portugal. This Convention has been ratified by all the signatory powers with the exception of the United States and Italy.

The purpose of the Convention is to continue the struggle against the dangers of alcoholism to African natives through the prohibition of the importation of trade spirits and of beverages injurious to health into the territories in Africa under the control of the Contracting Parties, excepting Algiers, Tunis, Morocco, Libya, Egypt and the Union of South Africa and into islands lying within 100 nautical miles of the coast; by the imposition of heavy duties on the importation of other distilled beverages into those territories; and by the prohibition of the manufacture of distilled beverages in the same regions and of the importation and possession of distilling apparatus. Certain exceptions are made in regard to pharmaceutical alcohols required for medical, surgical or pharmaceutical establishments and for distilling apparatus for similar uses.

Article 7 of the Convention provides for the establishment of a Central International Office placed under the control of the League of Nations, for the purpose of collecting and preserving documents exchanged by the Contracting Parties, pertaining to the application of certain provisions of the Convention. This Article also requires that each of the Contracting Parties shall publish an annual report showing the quantities of spirituous beverages imported or manufactured in the territories concerned and the duties levied and that a copy of this report shall be sent to the Central International Office and to the Secretary General of the League of Nations. The provisions of Article 7 obviously would have no application to the United States.

Article 8 provides that in the event of any dispute arising between parties to the Convention relating to the application of the Convention which cannot be settled by negotiation, the dispute shall be submitted to an arbitral tribunal in conformity with the Covenant of the League of Nations. As this country is not a member of the League of Nations, it is suggested that in giving its advice and consent to ratification the Senate may desire to make a reservation providing for arbitral reference to some other tribunal.

The United States is a party to the Convention for the Regulation of the Importation of Spirituous Liquors into certain regions of Africa, signed at Brussels on June 8, 1899, and to the Convention signed at Brussels on November 3, 1906, revising the duties imposed by the Brussels convention of June 8, 1899.⁵⁵ Chapter VI of the Act of Brussels of July 2, 1890, for the repression of the African slave trade,⁵⁶ to which the United States is also a party, provides for the restriction of traffic in spirituous liquors.

The first paragraph of Article 11 of the Convention Relating to the Liquor Traffic in Africa, signed at Saint Germain-en-Laye on September 10, 1919, which is the subject of the present report, abrogates the provisions of former general international conventions relating to the matters dealt with in the present convention insofar as they are binding between the powers which are parties to the present convention. Such provisions of those international acts are therefore no longer in force between Belgium, the British Empire, France, Japan and Portugal although they are still in force as respects the United States.

While the present Convention would in its application impose definite obligations only upon States having colonial possessions in Africa, it is in harmony with the attitude of the United States with respect to the liquor traffic in Africa as expressed in the earlier con-

⁵⁵ For texts of treaties of 1899 and 1906, see Malloy, *Treaties, 1776-1909*, vol. II, pp. 1993 and 2205.

⁵⁶ *Ibid.*, p. 1964.

ventions. It is believed that this Government should continue to give its moral support to efforts to safeguard the natives of Africa from the dangers of uncontrolled liquor traffic. By ratification of the present Convention it would place its relationship to those matters on the basis now subsisting between Belgium, the British Empire, France, Japan and Portugal in place of the provisions of the older acts which have been so largely abandoned. It is recommended, therefore, that the Senate be requested to give its advice and consent to ratification of the Convention, subject to a reservation in respect of the arbitration of disputes.

Accordingly, it is recommended that, if this course meets with your approval, the Senate be requested to take suitable action advising and consenting to ratification of the Convention of 1919 Relating to the Liquor Traffic in Africa subject to a reservation that the United States reserves the right to submit any dispute in which it may be concerned, relating to the application of the Convention, by agreement with the other parties and in accordance with the constitutional procedure of each State to a court of arbitration constituted in accordance with The Hague Convention of October 18, 1907,⁵⁷ or to some other court of arbitration.

Respectfully submitted,

FRANK B. KELLOGG

WASHINGTON. *May 22, 1928.*

[Enclosure]

*Draft of a Letter From President Coolidge to the Senate*⁵⁸

TO THE SENATE: To the end that I may receive the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Convention Relating to the Liquor Traffic in Africa, signed at Saint Germain-en-Laye on September 10, 1919.

I further transmit for the information of the Senate a report from the Secretary of State recommending that this Convention be ratified with a reservation in regard to arbitral procedure.

Article 8 provides for the submission of disputes arising with respect to the application of the Convention to an arbitral tribunal in conformity with the provisions of the Covenant of the League of Nations. The Secretary of State feels that this Government should not be bound by the procedure provided for in that Article and suggests the adoption of a reservation to the effect that any disputes in which the United States may be concerned, relating to the application of the Convention, shall be submitted by agreement with the other parties and in accordance with their constitutional procedure

⁵⁷ *Foreign Relations, 1907*, pt. 2, p. 1181.

⁵⁸ Sent to the Senate May 22, 1928.

to a court of arbitration constituted in accordance with The Hague Convention of October 18, 1907, or to some other court of arbitration.

I concur in the recommendation made by the Secretary of State.

Treaty Series No. 773

*Convention Relating to the Liquor Traffic in Africa, Signed at Saint Germain-en-Laye, September 10, 1919*⁵⁹

The United States of America, Belgium, the British Empire, France, Italy, Japan and Portugal;

Whereas it is necessary to continue in the African territories placed under their administration the struggle against the dangers of alcoholism which they have maintained by subjecting spirits to constantly increasing duties;

Whereas, further, it is necessary to prohibit the importation of distilled beverages rendered more especially dangerous to the native populations by the nature of the products entering into their composition or by the opportunities which a low price gives for their extended use;

Whereas, finally, the restrictions placed on the importation of spirits would be of no effect unless the local manufacture of distilled beverages was at the same time strictly controlled;

Have appointed as their plenipotentiaries:

[Here follows list of names of plenipotentiaries.]

Who, having communicated their full powers found in good and due form,

Have agreed as follows:

ARTICLE 1

The High Contracting Parties undertake to apply the following measures for the restriction of the liquor traffic in the territories which are or may be subjected to their control throughout the whole of the continent of Africa, with the exception of Algiers, Tunis, Morocco, Libya, Egypt, and the Union of South Africa.

The provisions applicable to the continent of Africa shall also apply to the islands lying within 100 nautical miles of the coast.

ARTICLE 2

The importation, distribution, sale and possession of trade spirits of every kind, and of beverages mixed with these spirits, are prohibited

⁵⁹ Signed in French; English translation reprinted from the Department of State Treaty Series. Ratification advised by the Senate, with reservation, Feb. 28, 1929 (legislative day of Feb. 25); ratified by the President, Mar. 7, 1929; ratification of the United States deposited with the Government of the French Republic, Mar. 22, 1929; proclaimed by the President, Mar. 26, 1929.

in the area referred to in Article 1. The local Governments concerned will decide respectively which distilled beverages will be regarded in their territories as falling within the category of trade spirits. They will endeavor to establish a nomenclature and measures against fraud as uniform as possible.

ARTICLE 3

The importation, distribution, sale and possession are also forbidden of distilled beverages containing essential oils or chemical products which are recognised as injurious to health, such as thuyone, star anise, benzoic aldehyde, salicylic ethers, hyssop and absinthe.

The local Governments concerned will likewise endeavor to establish by common agreement the nomenclature of those beverages whose importation, distribution, sale and possession according to the terms of this provision should be prohibited.

ARTICLE 4

An import duty of not less than 800 francs per hectolitre of pure alcohol shall be levied upon all distilled beverages, other than those indicated in Articles 2 and 3, which are imported into the area referred to in Article 1, except in so far as the Italian colonies are concerned, where the duty may not be less than 600 francs.

The High Contracting Parties will prohibit the importation, distribution, sale and possession of spirituous liquors in those regions of the area referred to in Article 1 where their use has not been developed.

The above prohibition can be suspended only in the case of limited quantities destined for the consumption of non-native persons, and imported under the system and conditions determined by each Government.

ARTICLE 5

The manufacture of distilled beverages of every kind is forbidden in the area referred to in Article 1.

The importation, distribution, sale and possession of stills and of all apparatus or portions of apparatus suitable for distillation of alcohol and the redistillation of brandies and spirits are forbidden in the same area, subject to the provisions of Article 6.

The provisions of the two preceding paragraphs do not apply to the Italian colonies; the manufacture of distilled beverages, other than those specified in Articles 2 and 3, will continue to be permitted therein, on condition that they are subject to an excise duty equal to the import duty established in Article 4.

ARTICLE 6

The restrictions on the importation, distribution, sale, possession and manufacture of spirituous beverages do not apply to pharma-

ceutical alcohols intended for medical, surgical or pharmaceutical establishments. The importation, distribution, sale and possession are also permitted of:

(1) Testing stills, that is to say, the small apparatus in general use for laboratory experiments, which are employed intermittently, are not fitted with rectifying heads, and the capacity of whose retort does not exceed one litre;

(2) Apparatus or parts of apparatus intended for experiments in scientific institutions;

(3) Apparatus or parts of apparatus employed for definite purposes, other than the production of alcohol, by pharmacists holding a diploma, and by persons who can show good cause for the possession of such apparatus;

(4) Apparatus necessary for the manufacture of alcohol for industrial purposes, and employed by duly authorized persons, such manufacture being subject to the supervision established by the local administration.

The necessary permission in the foregoing cases will be granted by the local administration of the territory in which the stills, apparatus, or portions of apparatus are to be utilized.

ARTICLE 7

A Central International Office, placed under the control of the League of Nations, shall be established for the purpose of collecting and preserving documents of all kinds exchanged by the High Contracting Parties with regard to the importation and manufacture of spirituous liquors under the conditions referred to in the present Convention.

Each of the High Contracting Parties shall publish an annual report showing the quantities of spirituous beverages imported or manufactured and the duties levied under Articles 4 and 5. A copy of this report shall be sent to the Central International Office and to the Secretary-General of the League of Nations.

ARTICLE 8

The High Contracting Parties agree that if any dispute whatever should arise between them relating to the application of the present Convention which cannot be settled by negotiation, this dispute shall be submitted to an arbitral tribunal in conformity with the Covenant of the League of Nations.

ARTICLE 9

The High Contracting Parties reserve the right of introducing into the present Convention by common agreement after a period of five years such modifications as may prove to be necessary.

ARTICLE 10

The High Contracting Parties will use every effort to obtain the adhesion to the present Convention of the other States exercising authority over territories of the African Continent.

This adhesion shall be notified through the diplomatic channel to the Government of the French Republic, and by it to all the signatory or adhering States. The adhesion will come into effect from the date of the notification to the French Government.

ARTICLE 11

All the provisions of former general international Conventions relating to the matters dealt with in the present Convention shall be considered as abrogated in so far as they are binding between the Powers which are parties to the present Convention.

The present Convention shall be ratified as soon as possible.

Each Power will address its ratification to the French Government, which will inform all the other signatory Powers.

The ratifications will remain deposited in the archives of the French Government.

The present Convention will come into force for each signatory Power from the date of the deposit of its ratification, and from that moment that Power will be bound in respect of other Powers which have already deposited their ratifications.

On the coming into force of the present Convention, the French Government will transmit a certified copy to the Powers which under the Treaties of Peace have undertaken to accept and observe it, and are in consequence placed in the same position as the Contracting Parties. The names of these Powers will be notified to the States which adhere.

In faith whereof, the above-named Plenipotentiaries have signed the present Convention.

Done at Saint-Germain-en-Laye, the tenth day of September, one thousand nine hundred and nineteen, in a single copy which will remain deposited in the archives of the Government of the French Republic, and of which authenticated copies will be sent to each of the signatory Powers.

[SEAL] FRANK L. POLK
 [SEAL] HENRY WHITE
 [SEAL] TASKER H. BLISS
 [SEAL] HYMANS
 [SEAL] VAN DEN HEUVEL
 [SEAL] E. VANDERVELDE
 [SEAL] ARTHUR JAMES BALFOUR
 [SEAL] MILNER

[SEAL]	GEO. N. BARNES
[SEAL]	A. E. KEMP
[SEAL]	G. F. PEARCE
[SEAL]	MILNER
[SEAL]	THOS. MACKENZIE
[SEAL]	SINHA OF RAIPUR
[SEAL]	G. CLEMENCEAU
[SEAL]	S. PICHON
[SEAL]	L. L. KLOTZ
[SEAL]	ANDRÉ TARDIEU
[SEAL]	JULES CAMBON
[SEAL]	TOM. TITONI
[SEAL]	VITTORIO SCIALOJA
[SEAL]	MAGGIORINO FERRARIS
[SEAL]	GUGLIELMO MARCONI
[SEAL]	S. CHINDA
[SEAL]	K. MATSUI
[SEAL]	AFFONSO COSTA
[SEAL]	AUGUSTO SOARES

[On February 28 (legislative day of February 25), 1929, the Senate gave its advice and consent to the ratification of the above convention, subject to the following reservation: "Should any dispute whatever arise between any of the high contracting parties and the United States relative to the application of the present convention which can not be settled by negotiation, such dispute shall be submitted to the Permanent Court of Arbitration at The Hague, established by the convention of October 18, 1907, or to such other arbitral tribunal upon which the parties to the dispute may agree."]

CONVENTION SIGNED AT SAINT GERMAIN-EN-LAYE, SEPTEMBER 10, 1919, REVISING THE GENERAL ACT OF BERLIN OF 1885 AND THE GENERAL ACT AND DECLARATION OF BRUSSELS OF 1890⁹⁹

550.48 A 1/173a

The Secretary of State to President Coolidge

THE PRESIDENT: The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to the ratification thereof, if his judgment shall approve such action, a certified copy, with translation, of the Convention Revising the General Act

⁹⁹ For text of the General Act of Berlin, in French, see *British and Foreign State Papers*, 1884-1885, vol. CXXVI, p. 4; for text of the General Act and Declaration of Brussels, see Malloy, *Treaties*, 1776-1909, vol. II, p. 1964.

of Berlin, signed February 26, 1885, and the General Act and the Declaration of Brussels, signed July 2, 1890, which Convention was concluded at St. Germain-en-Laye on September 10, 1919.

The parties signatory to this Convention, which will be referred to herein as the Revising Convention, are the United States of America, Belgium, the British Empire, France, Italy, Japan and Portugal. With the exception of the United States and of Italy, it has been ratified by all of the States signatory to it.

The recommendation that the United States shall ratify the Revising Convention is based primarily upon the following reasons:

(1) The Revising Convention provides for the maintenance of the Open Door, in respect of the signatories thereof and of states members of the League of Nations, throughout an immense region stretching across Africa from the Atlantic Ocean to the Indian Ocean, which is potentially of considerable importance to American commerce. The United States is a party to the General Act of the International Conference of Algeciras, signed April 7, 1906,^{60a} which instrument provides for the Open Door and with it the safeguarding of American commercial interests in Morocco. The United States has recently concluded conventions with the countries holding mandates for certain territories in Africa, by virtue of which it receives in such territories the treatment accorded to states members of the League of Nations. It is believed that similar safeguards should be provided for in the important regions of Central Africa to which the Revising Convention applies.

It may appropriately be added that American commercial policy is based upon the conception of equality of treatment. Assurance of equality of treatment in the regions under consideration can be most efficaciously and conveniently maintained by ratifying the Revising Convention. There is reason to be apprehensive of discrimination, especially in colonial areas, which may become involved in systems of intra-imperial preference, unless a positive guarantee is maintained.

American exports of merchandise and American shipping entering the ports of the territories in question alike demand the promise afforded by the Revising Convention that they will not be discriminated against.

(2) The provisions of the Revising Convention include articles for the purpose of assuring religious freedom and protection of religious, charitable and scientific institutions. American missionary organizations, as well as other institutions which are interested in developing a higher degree of welfare in Central Africa, have left no doubt whatever of the importance which they attach to this provision. It is deemed especially important that American nationals representing

^{60a} *Foreign Relations*, 1906, pt. 2, p. 1495.

these institutions in Africa shall have the protection afforded by American participation in the Revising Convention.

(3) Under the terms of the Revising Convention, the parties thereto will shortly reassemble for the purpose of considering whether a further revision may be useful. While it is possible that the United States might participate in a conference for that purpose without having ratified the Convention, the natural and easy way of assuring such participation, and with it the opportunity to re-affirm and perhaps to extend the American policy of the Open Door, is to accept the Convention prior to the Conference.

(4) The Revising Convention forms an essential part of a group of instruments relating primarily to Africa, but in some cases of general application, in all of which it appears to be important that the United States become a participant. One of these, a Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War, signed at Geneva on June 17, 1925,⁶¹ was transmitted by you to the Senate on January 12, 1926, but has not as yet been acted upon by the Senate. There are being forwarded at this time, with a view to their transmission to the Senate, certified copies of the other two, namely, the Convention Relating to the Liquor Traffic in Africa, signed at St. Germain-en-Laye on September 10, 1919,⁶² and a certified copy of the Slavery Convention, signed at Geneva on September 25, 1926.⁶³ The simultaneous acceptance by the United States of these four Conventions will not only safeguard American interests in important matters but will have a definitely helpful moral influence upon the welfare of Central Africa in the matter of slavery, the prohibition of alcoholic liquors and the suppression of the traffic in arms. In respect of the traffic in arms and of slavery the provisions of the conventions are, moreover, general in their scope.

(5) Finally, in view of the fact that the United States is a party to the General Act of Brussels, which is revised by the Convention under consideration, and since the Act of Brussels has been abrogated in respect of Belgium, France, Great Britain, Japan and Portugal by virtue of their acceptance of the Revising Convention, it is deemed highly desirable that the United States, likewise, shall accept the Revising Convention and so bring its position into line with the position of the other powers principally interested, with consequent participation in the advantages which such powers enjoy thereunder. For the United States to continue under obligations arising from an instrument from which the parties of principal interest have withdrawn, is deemed inexpedient. Hence the termination of such obligations under the General Act of Brussels through becoming a party to the Revising

⁶¹ *Foreign Relations*, 1925, vol. I, p. 61.

⁶² *Ante*, p. 429.

⁶³ *Ante*, p. 419.

Convention is advisable for the United States. The United States is not a party to the General Act of Berlin or to the Declaration of Brussels.

It is necessary to call attention to the provisions of Article 12 of the Revising Convention, relating to the arbitration of disputes arising under the Convention. In view of the fact that the United States is not a member of the League of Nations and the arbitral provisions presuppose reference to a tribunal in conformity with the provisions of the Covenant, it seems appropriate that this Government, in ratifying the Convention, should make a reservation to the effect that it may submit disputes to some other arbitral tribunal.

Accordingly, it is suggested that the Senate may appropriately give its consent with the following reservation:

"The Senate consents to the ratification of the present Convention subject to the understanding that, in the event of a dispute in which the United States may be involved arising under the Convention, such dispute shall, if the United States so requests, be submitted to a court of arbitration constituted in accordance with the Convention for the Pacific Settlement of International Disputes, signed at The Hague on October 18, 1907,⁶⁴ or to some other court of arbitration."

In accordance with the foregoing considerations, it is recommended that, if such course meets with approval, the Senate be requested to take suitable action consistent therewith for the purpose of advising and consenting to the ratification of the Convention Revising the General Act of Berlin and the General Act and the Declaration of Brussels.

Respectfully submitted,

FRANK B. KELLOGG

WASHINGTON, *May 22, 1928.*

[Enclosure]

*Draft of a Letter From President Coolidge to the Senate*⁶⁵

To the end that I may receive the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Convention signed at St. Germain-en-Laye on September 10, 1919, Revising the General Act of Berlin of February 26, 1885, and the General Act and Declaration of Brussels of July 2, 1890.

I further transmit for the information of the Senate a report from the Secretary of State recommending that the Revising Convention referred to be ratified with a reservation in regard to arbitral procedure.

Article 12 provides for the submission of disputes arising with respect to the application of the Convention to an arbitral tribunal in

⁶⁴ *Foreign Relations*, 1907, pt. 2, p. 1181.

⁶⁵ Sent to the Senate May 22, 1928.

conformity with the provisions of the Covenant of the League of Nations. The Secretary of State feels that this Government should not be bound by the procedure provided for in Article 12, and suggests that the advice and consent of the Senate to ratification be given subject to a reservation to the effect that any disputes in which the United States may be concerned may be submitted to a court of arbitration constituted in accordance with The Hague Convention of October 18, 1907, or to some other court of arbitration.

I concur in the recommendation of the Secretary of State.

Treaty Series No. 877

*Convention Revising the General Act of Berlin of 1885 and the General Act and Declaration of Brussels of 1890, Signed at Saint Germain-en-Laye, September 10, 1919*⁶⁸

The United States of America, Belgium, the British Empire, France, Italy, Japan, and Portugal,

Whereas the General Act of the African Conference, signed at Berlin on February 26, 1885, was primarily intended to demonstrate the agreement of the Powers with regard to the general principles which should guide their commercial and civilizing action in the little known or inadequately organized regions of a continent where slavery and the slave trade still flourished; and

Whereas by the Brussels Declaration of July 2, 1890, it was found necessary to modify for a provisional period of fifteen years the system of free imports established for twenty years by Article 4 of the said Act, and since that date no agreement has been entered into, notwithstanding the provisions of the said Act and Declaration; and

Whereas the territories in question are now under the control of recognized authorities, are provided with administrative institutions suitable to the local conditions, and the evolution of the native populations continues to make progress;

Wishing to ensure by arrangements suitable to modern requirements the application of the general principles of civilization established by the Acts of Berlin and Brussels,

Have appointed as their Plenipotentiaries:

[Here follows list of names of plenipotentiaries.]

⁶⁸ Signed in French; English translation reprinted from the Department of State Treaty Series. Ratification advised by the Senate, with an understanding, Apr. 3, 1930 (legislative day of Apr. 2); ratified by the President, subject to the said understanding, Apr. 11, 1930; ratification of the United States deposited with the Government of the French Republic, Oct. 29, 1934; proclaimed by the President, Nov. 3, 1934.

Who, after having communicated their full powers recognized in good and due form,

Have agreed as follows:

ARTICLE 1

The Signatory Powers undertake to maintain between their respective nationals and those of States, Members of the League of Nations, which may adhere to the present Convention a complete commercial equality in the territories under their authority within the area defined by Article 1 of the General Act of Berlin of February 26, 1885, set out in the Annex hereto, but subject to the reservation specified in the final paragraph of that article.

ANNEX

ARTICLE 1 OF THE GENERAL ACT OF BERLIN OF FEBRUARY 26, 1885

The trade of all nations shall enjoy complete freedom:

1. In all the regions forming the basin of the Congo and its affluents. This basin is bounded by the watersheds (or mountain ridges) of the adjacent basins, namely, in particular, those of the Niari, the Ogowé, the Shari, and the Nile, on the north; by the eastern watershed line of the affluents of Lake Tanganyika on the east; and by the watersheds of the basins of the Zambesi and the Logé on the south. It therefore comprises all the regions watered by the Congo and its affluents, including Lake Tanganyika, with its eastern tributaries.

2. In the maritime zone extending along the Atlantic Ocean from the parallel situated in 2° 30' of south latitude to the mouth of the Logé.

The northern boundary will follow the parallel situated in 2° 30' from the coast to the point where it meets the geographical basin of the Congo, avoiding the basin of the Ogowé, to which the provisions of the present Act do not apply.

The southern boundary will follow the course of the Logé to its source, and thence pass eastward till it joins the geographical basin of the Congo.

3. In the zone stretching eastward from the Congo Basin as above defined, to the Indian Ocean from 5° of north latitude to the mouth of the Zambesi in the south, from which point the line of demarcation will ascend the Zambesi to 5 miles above its confluence with the Shiré, and then follow the watershed between the affluents of Lake Nyassa and those of the Zambesi, till at last it reaches the watershed between the waters of the Zambesi and the Congo.

It is expressly recognized that in extending the principle of free trade to this eastern zone, the Conference Powers only undertake engagements for themselves, and that in the territories belonging to an independent Sovereign State this principle shall only be applicable in so far as it is approved by such State. But the Powers agree to use their good offices with the Governments established on the African shore of the Indian Ocean for the purpose of obtaining such approval, and in any case of securing the most favorable conditions to the transit of all nations.

ARTICLE 2

Merchandise belonging to the nationals of the Signatory Powers, and to those of States, Members of the League of Nations, which may adhere to the present Convention, shall have free access to the interior of the regions specified in Article 1. No differential treat-

ment shall be imposed upon the said merchandise on importation or exportation, the transit remaining free from all duties, taxes or dues, other than those collected for services rendered.

Vessels flying the flag of any of the said Powers shall also have access to all the coast and to all maritime ports in the territories specified in Article 1; they shall be subject to no differential treatment.

Subject to these provisions, the States concerned reserve to themselves complete liberty of action as to the customs and navigation regulations and tariffs to be applied in their territories.

ARTICLE 3

In the territories specified in Article 1 and placed under the authority of one of the Signatory Powers, the nationals of those Powers, or of States, Members of the League of Nations, which may adhere to the present Convention shall, subject only to the limitations necessary for the maintenance of public security and order, enjoy without distinction the same treatment and the same rights as the nationals of the Power exercising authority in the territory, with regard to the protection of their persons and effects, with regard to the acquisition and transmission of their movable and real property, and with regard to the exercise of their occupations.

ARTICLE 4

Each State reserves the right to dispose freely of its property and to grant concessions for the development of the natural resources of the territory, but no regulations on these matters shall admit of any differential treatment between the nationals of the Signatory Powers and of States, Members of the League of Nations, which may adhere to the present Convention.

ARTICLE 5

Subject to the provisions of the present chapter, the navigation of the Niger, of its branches and outlets, and of all the rivers, and of their branches and outlets, within the territories specified in Article 1, as well as of the lakes situated within those territories, shall be entirely free for merchant vessels and for the transport of goods and passengers.

Craft of every kind belonging to the nationals of the Signatory Powers and of States, Members of the League of Nations, which may adhere to the present Convention shall be treated in all respects on a footing of perfect equality.

ARTICLE 6

The navigation shall not be subject to any restriction or dues based on the mere fact of navigation.

It shall not be held to any obligation in regard to landing, stopping, warehousing, bulk breaking or enforced lay over.

No maritime or river toll, based on the mere fact of navigation, shall be levied on vessels, nor shall any transit duty be levied on goods on board. Only such taxes or dues shall be collected as may be in compensation for services rendered to navigation itself. The tariff of these taxes or duties shall not admit of any differential treatment.

ARTICLE 7

The affluents of the rivers and lakes specified in Article 5 shall in all respects be subject to the same rules as the rivers or lakes of which they are tributaries.

The roads, railways or lateral canals which may be constructed with the special object of obviating the innavigability or correcting the imperfections of the water route on certain sections of the rivers and lakes specified in Article 5, their affluents, branches and outlets, shall be considered, in their quality of means of communication, as dependencies of these rivers and lakes, and shall be equally open to the traffic of the nationals of the Signatory Powers and of the States, Members of the League of Nations, which may adhere to the present Convention.

On these roads, railways and canals only such tolls shall be collected as are calculated on the cost of construction, maintenance and management, and on the profits reasonably accruing to the undertaking. As regards the tariff of these tolls, the nationals of the Signatory Powers and of States, Members of the League of Nations, which may adhere to the present Convention, shall be treated on a footing of perfect equality.

ARTICLE 8

Each of the Signatory Powers shall remain free to establish the rules which it may consider expedient for the purpose of ensuring the safety and supervision of navigation, on the understanding that these rules shall facilitate, as far as possible, the circulation of merchant vessels.

ARTICLE 9

In such sections of the rivers and of their affluents, as well as on such lakes, as are not necessarily utilized by more than one riparian State, the Governments exercising authority shall remain free to

establish such systems as may be required for the maintenance of public safety and order, and for other necessities of the work of civilization and colonization; but the regulations shall not admit of any differential treatment between vessels or between nationals of the Signatory Powers and of States, Members of the League of Nations, which may adhere to the present Convention.

ARTICLE 10

The Signatory Powers acknowledge their obligation to maintain in the regions under their control actual authority and police forces sufficient to insure protection for persons and property and, if the case should arise, freedom for commerce and transit.

ARTICLE 11

The Signatory Powers exercising sovereign rights or authority in African territories will continue to see to the preservation of the native populations and the improvement of their moral and material conditions. They will, in particular, endeavor to secure the complete suppression of slavery in all its forms and of the black slave trade by land and sea.

They will protect and favor, without distinction of nationality or of religion, the religious, scientific or charitable institutions and undertakings created and organized by the nationals of the other Signatory Powers and of States, Members of the League of Nations, which may adhere to the present Convention, which aim at leading the natives in the path of progress and civilization. Scientific missions, their outfits and their collections, shall likewise be the objects of special solicitude.

Freedom of conscience and the free exercise of all forms of religion are expressly guaranteed to all nationals of the Signatory Powers and to those of the States, Members of the League of Nations, which may become parties to the present Convention. Accordingly, missionaries shall have the right to enter into, and to travel and reside in, African territory with a view to pursuing their religious work.

The application of the provisions of the two preceding paragraphs shall be subject only to such restrictions as may be necessary for the maintenance of public security and order, or as may result from the enforcement of the constitutional law of any of the Powers exercising authority in African territories.

ARTICLE 12

The Signatory Powers agree that if any dispute whatever should arise between them relating to the application of the present Con-

vention which cannot be settled by negotiation, this dispute shall be submitted to an arbitral tribunal in conformity with the provisions of the Covenant of the League of Nations.

ARTICLE 13

Except in so far as the stipulations contained in Article 1 of the present Convention are concerned, the General Act of Berlin of 26th February, 1885, and the General Act of Brussels of 2nd July, 1890, with the accompanying Declaration of equal date, shall be considered as abrogated, in so far as they are binding between the Powers which are Parties to the present Convention.

ARTICLE 14

States exercising authority over African territories, and other States, Members of the League of Nations, which were parties either to the Act of Berlin or to the Act of Brussels or the Declaration annexed thereto, may adhere to the present Convention. The Signatory Powers will use their best endeavors to obtain the adhesion of these States.

This adhesion shall be notified through the diplomatic channel to the Government of the French Republic, and by it to all the Signatory or adhering States. The adhesion will come into force from the date of its notification to the French Government.

ARTICLE 15

The Signatory Powers will reassemble at the expiration of ten years from the coming into force of the present Convention, in order to introduce into it such modifications as experience may have shown to be necessary.

The present Convention shall be ratified as soon as possible.

Each Power will address its ratification to the French Government, which will inform all the other Signatory Powers.

The ratifications will remain deposited in the archives of the French Government.

The present Convention will come into force for each Signatory Power from the date of the deposit of its ratification, and from that moment that Power will be bound in respect of other Powers which have already deposited their ratifications.

On the coming into force of the present Convention, the French Government will transmit a certified copy to the Powers which, under the Treaties of Peace, have undertaken to accept and observe it. The names of these Powers will be notified to the States which adhere.

In faith whereof the above-named Plenipotentiaries have signed the present Convention.

Done at Saint-Germain-en-Laye, the 10th day of September, 1919, in a single copy, which will remain deposited in the archives of the Government of the French Republic, and of which authenticated copies will be sent to each of the Signatory Powers.

[SEAL] FRANK L. POLK
[SEAL] HENRY WHITE
[SEAL] TASKER H. BLISS
[SEAL] HYMANS
[SEAL] J. VAN DEN HEUVEL
[SEAL] E. VANDERVELDE
[SEAL] ARTHUR JAMES BALFOUR
[SEAL]
[SEAL] MILNER
[SEAL] G. N. BARNES
[SEAL] A. E. KEMP
[SEAL] G. F. PEARCE
[SEAL] MILNER
[SEAL] THOS. MACKENZIE
[SEAL] SINHA OF RAIPUR
[SEAL] G. CLEMENCEAU
[SEAL] S. PICHON
[SEAL] L. L. KLOTZ
[SEAL] ANDRÉ TARDIEU
[SEAL] JULES CAMBON
[SEAL] TOM. TITTONI
[SEAL] VITTORIO SCIALOJA
[SEAL] MAGGIORINO FERRARIS
[SEAL] GUGLIELMO MARCONI
[SEAL] S. CHINDA
[SEAL] K. MATSUI
[SEAL] H. IJUIN
[SEAL] AFFONSO COSTA
[SEAL] AUGUSTO SOARES

[The Senate resolution of April 3 (legislative day of April 2), 1930, giving advice and consent to the ratification of the treaty, contained the following understanding: "that in the event of a dispute in which the United States may be involved arising under the convention such dispute shall, if the United States so requests, be submitted to a court of arbitration constituted in accordance with the convention for the pacific settlement of international disputes signed at The Hague on October 18, 1907, or to some other court of arbitration."]

INTEREST OF THE UNITED STATES IN EFFORTS OF THE LEAGUE OF NATIONS TO CONTROL THE TRAFFIC IN NARCOTIC DRUGS⁶⁷

500.C1197/151

*The Secretary of State to Senator Reed Smoot*⁶⁸

WASHINGTON, *March 23, 1928.*

SIR: Replying to your letter of March 12, 1928,⁶⁹ inquiring concerning the policy of this Government with regard to the control of the traffic in narcotic drugs, I have the honor to state that this subject is one in which this Department continues to be deeply interested.

The policy of the Government, domestically and internationally in cooperation with the other governments, has been and continues to be to seek the eradication of the abuse of opium and coca leaves and their derivatives. To this end it initiated the movement resulting in the calling of the International Opium Commission at Shanghai in 1909.⁷⁰ It participated in the conference called at The Hague which resulted in The Hague Opium Convention of 1912,⁷¹ and when the League of Nations called the two conferences held at Geneva in 1924 and 1925⁷² this Government participated in the second of those conferences under the authorization contained in the Joint Resolution of Congress of May 15, 1924, which directed our representatives not to sign any agreement which did not "fulfill the conditions necessary for the suppression of the habit-forming narcotic drug traffic as set forth in the preamble" of that resolution which interpreted the purposes of The Hague Opium Convention of 1912 in the following way:

"1. If the purpose of the Hague Opium Convention is to be achieved according to its spirit and true intent, it must be recognized that the use of opium products for other than medical and scientific purposes is an abuse and not legitimate.

"2. In order to prevent the abuse of these products, it is necessary to exercise the control of the production of raw opium in such manner that there will be no surplus available for non-medical and non-scientific purposes."

The American Delegation to the second opium conference withdrew from that conference before the completion of its work, because it was forced to the conclusion that the convention which

⁶⁷ For previous correspondence concerning efforts to control traffic in narcotic drugs, see *Foreign Relations*, 1926, vol. I, pp. 250 ff.

⁶⁸ Chairman of the Senate Committee on Finance.

⁶⁹ Printed in *Establishment of Two Federal Narcotic Farms: Hearings Before the Committee on the Judiciary, House of Representatives, 70th Cong., 1st sess., on H. R. 12781 and H. R. 13645* (Serial 29—Revised print) (Washington, Government Printing Office, 1928).

⁷⁰ See *Foreign Relations*, 1909, pp. 95 ff.

⁷¹ See *ibid.*, 1912, pp. 182 ff.; text of convention on p. 196.

⁷² See *ibid.*, 1924, vol. I, pp. 89 ff.

was being drawn up did not conform to the principles and policy laid down in the Joint Resolution under which they were instructed to act for this Government. Their reasons were set forth in the memorandum which was attached to the letter of February 6, 1925, addressed by the Honorable Stephen G. Porter, Chairman of the American Delegation, to the President of the Second Opium Conference. Copies of the memorandum and of the text of the Joint Resolution (Public Resolution No. 20—68th Congress) are attached for your information.⁷³

It has furthermore been and continues to be the policy of this Government, both in regard to its domestic situation and internationally in cooperation with the other Powers, to seek the enactment of pharmacy laws and regulations which will limit the manufacture, the sale and the use of morphine, cocaine and their respective salts to the medical needs of the world. (Cf. Hague Convention, Chapter III, Article 9.) With this in view, this Government on October 14, 1926, addressed an instruction to the American diplomatic representatives in the countries signatory to The Hague Convention directing them to bring to the attention of those Governments the steps which have been taken for the control of the manufacture of and traffic in narcotic drugs within the territorial limits of the United States pursuant to the requirements of The Hague Convention and to point out the need for similar control in other countries, particularly those producing opium derivatives, if the illicit international traffic in these drugs is to be eradicated. A copy of this instruction with its enclosures is transmitted herewith for your information.⁷⁴ Since the instruction of October 14, 1926, was issued, in order to perfect its system of control, this Government has adopted a new form of import certificates for narcotic shipments and has revised the regulations issued in pursuance of the Narcotic Drugs Import and Export Act. A set of the new import forms and a copy of the revised regulations, which become effective April 1, 1928, are attached.⁷⁵ Moreover, Treasury Department Regulations No. 35 on the subject of narcotic control have been replaced by Regulations No. 5, effective January 1, 1928, a copy of which is enclosed.⁷⁵

As a further means of meeting this situation and because of the increasing evidence that illicit narcotics found within the territorial limits of the United States by the preventive forces of this Government originated from sources outside of the territorial limits of the United States, the Department, in December, 1927, directed its repre-

⁷³ The memorandum is quoted in Mr. Porter's undated telegram to the Department of State, *Foreign Relations*, 1924, vol. I, p. 125. The resolution is printed in 43 Stat. 119.

⁷⁴ *Foreign Relations*, 1926, vol. I, p. 250.

⁷⁵ Not printed.

sentatives at various capitals ^{75a} to arrange with the governments concerned for the direct exchange of information, relating to persons and organizations engaged in the illicit international traffic in narcotic drugs, between the officers directly concerned with the control of that traffic in the United States and the corresponding officers in such foreign Governments. Arrangements have already been effected for such a direct exchange of information with the Governments of Great Britain, France, Germany and The Netherlands, and it is hoped that arrangements will be made with the following countries to all of which the Department's proposal has been communicated: Switzerland, Italy, Belgium, Czechoslovakia, Denmark, Portugal, Spain, Rumania, Free City of Danzig, Japan, Kingdom of the Serbs, Croats and Slovenes, Turkey and Greece.

On April 12 there is to be held in Geneva a meeting of the Advisory Committee on Opium and Other Dangerous Drugs of the League of Nations. I am instructing Mr. John K. Caldwell, a Foreign Service Officer who has been attached to the Consulate at Geneva and Mr. Pinkney Tuck, American Consul at Geneva, to attend this meeting as unofficial observers, as Mr. Tuck has done at previous meetings of the above mentioned Committee.

I have [etc.]

FRANK B. KELLOGG

500.C1197/159b

The Acting Secretary of State to Four American Insurance Companies

WASHINGTON, *March 27, 1928.*

SIRS: For many years the United States has been keenly alive to the necessity of eradicating the illicit trade in narcotic substances. With this end in view the Government has not only enacted domestic legislation but has undertaken commitments in conjunction with other nations, the general policy of narcotic control being based upon the principles laid down in the Hague Opium Convention of 1912, to which the United States is a signatory. Despite the measures of control adopted by the United States and by certain other countries, the illegitimate trade in narcotics is widespread, to the serious detriment of the people of this and other nations.

In 1926 there was brought to the attention of this Government an agreement made by the British Government with Lloyds and the members of the London Underwriters' Association, which was designed to prevent facilities being given for the insurance of consignments of opium or other dangerous drugs intended for illicit purposes. The danger was pointed out of underwriters, unaware of the fact that shipments were destined for illicit purposes, issuing policies

^{75a} Instructions of December 1927 not printed.

which were subsequently used to borrow funds to finance the illicit business. The British met this situation by inserting a clause in all maritime policies which provides that no losses will be paid on narcotic shipments unless each shipment is covered by an import permit from the country to which it is consigned, or by an export permit from the country from which the goods are exported. It is required also that the route of shipment be usual and customary, that the drugs be declared such in the policy and that the policy indicate the country from which and to which the shipment is consigned.

This alteration in maritime insurance policies is in harmony with the efforts of this Government to give practical effect to the principles of the Hague Opium Convention and with its action in requiring, in pursuance of the Narcotic Drugs Import and Export Act of 1922, that shipments of narcotics to and from this country be covered by import and export certificates. It is realized that such a voidance of maritime insurance for inadequately controlled narcotic shipments would cause illicit traffickers to have recourse to the insurance companies of countries in which the ban is not in force. This Government has been gratified to observe the willingness of seventy-two of the companies represented in the American Institute of Marine Underwriters voluntarily to adopt this so-called "Dangerous Drug Clause" in their contracts. It is understood that your company is one of four companies which have not yet given their assent to the inclusion of this clause, and the matter is brought to your attention in the belief that, with the above explanation of the nature and purpose of the proposed clause before you, you will not hesitate to indicate your willingness to join with the other American companies in adopting it.

In view of the traditional attitude of the Government of the United States concerning the suppression of the illicit traffic in narcotic drugs, as evidenced by its participation in the conferences at Shanghai in 1909 and at the Hague in 1912, together with the steps which have been taken, by domestic legislation and by cooperation with other powers, to bring about the control of the traffic contemplated by the Hague Convention of 1912, it would be most unfortunate if the United States should appear to be less willing than other countries to adopt any measure designed to reduce, in any degree, the menace of narcotic drug addiction. I should very much appreciate receiving some indication of your attitude, which I feel confident will be favorable, in regard to this matter.

A similar letter is being addressed to the other three companies which have not yet signified their acceptance of the proposal.⁷⁶

I am [etc.]

ROBERT E. OLDS

⁷⁶The four replies received indicated no agreement as to a new clause in these insurance policies.

511.4 A 2a/2 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, September 7, 1928—11 a. m.

[Received 12:34 p. m.]

89. Following note, dated September 5, received from Sir Eric Drummond: ⁷⁷

"I have the honor to inform you that the Council of the League of Nations at a meeting held on August 31, 1928, took note of the fact that the Geneva Opium Convention of February 19, 1925,⁷⁸ will come into force on the 25th of this month. The Council agreed to determine at its next session, towards the end of September, the question of the procedure to be adopted with regard to the appointment of the Permanent Central Board provided for under article 19 of the Convention, and to appoint the board at its subsequent (53d) session.

In conformity with the terms of article 19 of the Convention the Council decided at the same time to invite the United States of America to nominate a person to participate in the appointment of the Permanent Central Board. In accordance with the instructions of the Council I have the honor to convey this invitation to your Government. I have the honor to inform you further of the desire of the Council that the Government of the United States of America if it so wishes should take full part in the settlement of the procedure for appointing the Permanent Central Board. The Council would cordially welcome any views which the United States might wish to express on this matter, either by written communication or through a representative who should take part in the Council's discussion on the question."

WILSON

511.4 A 2a/7 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, September 29, 1928—2 p. m.

89. Your 89, September 7, 11 a. m. You are instructed to transmit in the usual informal manner the following communication to the Secretary General of the League of Nations in acknowledgment of his communication of September 5, 1928:

"The Secretary of State of the United States of America has the honor to acknowledge the receipt of the note of the Secretary General of the League of Nations dated September 5, 1928, stating that, in conformity with Article 19 of the Geneva Opium Convention of February 19, 1925, the Council of the League of Nations had decided to invite the United States of America to nominate a person to participate in the appointment of the Permanent Central Board, and stating further that it was the desire of the Council that the Government of the United States of America if it so wishes should take

⁷⁷ Secretary General of the League of Nations.⁷⁸ League of Nations Treaty Series, vol. LXXXI, p. 317.

full part in the settlement of the procedure for appointing the Permanent Central Board.

The Secretary of State of the United States of America desires to express his appreciation of this invitation, but regrets that the Government of the United States does not find it possible to participate in the selection of the Permanent Central Board set up by the Geneva Convention of February 19, 1925.

Although in the matter of manufactured drugs and the control of transportation the Geneva Convention may be regarded as an improvement over the Hague Convention of 1912, yet in the opinion of this Government the Geneva Convention is unsatisfactory in certain respects of sufficient importance to preclude this Government from adhering to the Convention and from participating in the selection of the Board provided for by the Convention. Among the matters which this Government regards as not adequately dealt with in the Geneva Convention are the limitation of the production of raw opium and coca leaves to the medicinal and scientific needs of the world and the control of the production and distribution of all opium and coca leaf derivatives. Furthermore, the Geneva Convention tends to destroy the unity of purpose and joint responsibility of the Powers accomplished by the Hague Convention and which this Government regards as essential to an effective control of the traffic in narcotic drugs. The American Government believes that, until there can be devised some substitute for the Hague Convention more satisfactory than the Geneva Convention, the eradication of the abuse of narcotic drugs would be more likely to be achieved by strict observance of the provisions of the Hague Convention.

However, the United States recognizes that the traffic in narcotic drugs can be controlled only by international cooperation and, in continuation of its efforts toward that end, will, in addition to observing its obligations under the Hague Convention, endeavor to furnish such information as the Permanent Central Board may request.^[7]

KELLOGG

500.C 1197/223

The Minister in Switzerland (Wilson) to the Secretary of State

No. 627

BERNE, *October 18, 1928.*

L. of N. No. 1223

[Received November 2.]

SIR: Referring to my telegram No. 99, of October 18, 12 m.,⁷⁹ I have the honor to transmit herewith the text of Sir Eric Drummond's note dated October 16, in which he inquired, on behalf of the Assembly of the League of Nations, whether the American Government would permit a Commission of inquiry into the use of opium prepared for smoking to visit the Philippine Islands and inform itself of the experience of the system of prohibition in operation there.

I have [etc.]

HUGH R. WILSON

⁷⁹ Not printed.

[Enclosure]

The Secretary General of the League of Nations (Drummond) to the American Minister in Switzerland (Wilson)

12/7768/6245

GENEVA, October 16, 1928.

SIR: I have the honour to inform you that the Ninth Assembly of the League of Nations, at a meeting held on September 24th, 1928, passed the following resolution:

“That the Assembly recommend the Council to appoint a Commission of three persons to enquire into and report upon the situation in the Far-Eastern territories of the Governments which agree to such an enquiry as regards the use of opium prepared for smoking; the measures taken by the Governments concerned to give effect to the obligations undertaken in Chapter II of the Hague Opium Convention of 1912 and in the Geneva Opium Agreement of February 1925; the nature and extent of the illicit traffic in opium in the Far East and the difficulties which it causes to the fulfilment of those obligations; and to suggest what action should in the circumstances be taken by the Governments concerned and by the League of Nations.

“That the Assembly also expresses the hope that the Government of the United States will permit the Commission to visit the Philippines and inform itself of the experience of the system of prohibition in operation there.”

In accordance with the resolution of the Assembly, I have the honour to bring to the attention of your Government the hope expressed by the Assembly that your Government will permit the Commission to visit the Philippines and inform itself of the experience of the system of prohibition in operation there.

In taking this action, I venture to place before you, for the information of your Government, certain facts which are set out in the Report of the Fifth Committee to the Assembly (A.82.1928.XI) and which explain the origin and purpose of the proposed Commission:

The proposal originated in a memorandum on the control of opium-smoking in the Far East communicated by the British Government in a letter, dated August 1st, 1928, to the Secretary-General for transmission to the Council of the League. This proposal was examined by the Council at its meeting on August 31st, and referred to the Assembly for its consideration.

As the report of the Fifth Committee to the Assembly indicates, the proposal had arisen out of the difficulties with which the British Government finds itself confronted in the attempt to carry out the undertaking into which it has entered in the Hague Convention “to take measures for the gradual and effective suppression of the use of prepared opium with due regard to the varying circumstances of each country concerned”. The British memorandum explains in detail the nature of these difficulties which arise from the existence of a large illicit traffic in opium in the Far East, and hamper or even nullify the efforts of the Governments concerned to control and restrict the con-

sumption. These difficulties existed already in 1924-25, when the First Geneva Conference was held. Since that Conference they have not diminished, but have actually increased. The memorandum refers specially to the difficulties experienced in Hong-Kong, where the Government of the Colony estimates the consumption of illicit opium to be many times that of the Government monopoly opium. But the difficulties are considerable also in Malaya, and it would appear from the proceedings of the Opium Advisory Committee of the League that other Governments have experienced similar difficulties.

The British Government states further that it has proceeded with the measures agreed upon by the Conference of 1924-25, but the present situation appears to it to be such as to call for a fresh examination and review on the spot, especially in view of the fact that under the terms of the Agreement of the First Geneva Conference a further Conference is due to be held not later than next year. The memorandum suggests that it is most desirable that an unbiassed statement of the actual position made by a completely independent Commission appointed by the League, to which is entrusted by the Covenant the supervision of the traffic, should be laid before the world. Such a Commission might further be able, as a result of its enquiries, to make valuable suggestions as to the measures to be adopted in the present circumstances. The enquiry would thus provide the material on which the next Conference would be able to base its work.

I should be grateful if the Government of the United States found it possible to inform me of its reply to the request set out in this letter not later than December 10th, on which date the Council will meet for its 53rd session, and will take a final decision as to the sending of the Commission and its composition. As regards the latter point, it is understood that the three members of the Commission will be chosen from nations which are not directly concerned in the problems to be investigated.

I have the honour to send you, for the information of your Government, the relevant documents dealing with this matter.⁸⁰ These are:

1) The letter and memorandum respecting the control of opium-smoking in the Far East, with appendix, communicated by the British Government, together with an extract from the Minutes of the Council, August 31st, 1928. (A.40.1928.XI.)

2) Provisional minutes of the Fifth Committee of the Ninth Ordinary Session of the Assembly (containing the discussions on the proposed Enquiry). (A.V./P.V.7, 8, 9, 11.)

3) Report of the Fifth Committee to the Assembly on the proposal by the Government of Great Britain for a Commission of Enquiry into the control of opium-smoking in the Far East. (A.82.1928.XI.)

4) Verbatim Record, Ninth Ordinary Session of the Assembly, September 24th, 1928. (See Pages 16-19).

I have [etc.]

ERIC DRUMMOND

⁸⁰ Enclosures not printed.

500.C1197/239 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, December 8, 1928—noon.

106. Your 117, December 6, 11 a.m.⁸¹

1. You may inform the Secretary General of the League of Nations, in reply to his note to you of October 16,⁸² that the Commission referred to therein will be made welcome in the Philippine Islands and that the Governor General of the Philippine Islands will render all possible assistance to it in connection with its investigations. You may add that this Government will appreciate receiving a copy of any report that may be rendered by the proposed Commission. Please inform Department personnel of Commission and dates when it will visit Philippines immediately you can obtain information.

2. [Paraphrase.] Although the United States Government, in principle, would not be disposed to object to any American serving on the Permanent Central Board, manifestly this Government could not suggest, in view of its inability to take part in electing the Board, that an American be elected to it, nor take any action which could be construed as recommending or endorsing any individual American for a Board position.

The Secretary General of the League of Nations should, therefore, be informed by you that the matter is one in regard to which the Department of State would prefer to express no opinion. [End paraphrase.]

KELLOGG

511.4 A 2a/23 : Telegram

The Consul at Geneva (Rand) to the Secretary of State

GENEVA, December 15, 1928—11 a. m.

[Received December 15—10:15 a.m.]

The Council of the League has appointed May⁸³ (American) a member of the Central Board provided for by the Geneva Opium Convention of 1925. Full report by mail.⁸¹

RAND

511.4 A 2a/24 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, December 15, 1928—3 p. m.

[Received 9:05 p. m.]

121. Department's 89, September 29, 2 p. m. Have received from Drummond text of memorandum adopted by Council on December 14 which will be released to press this afternoon. Text follows:

⁸¹ Not printed.⁸² *Supra*.⁸³ Herbert L. May, of Pittsburgh.

"The Council of the League of Nations wishes to express its appreciation of the directness and frankness of the reply of the Secretary of State of the United States of America to its invitation to participate in the selection of the Permanent Central Board provided for by the Geneva Convention of February 1925. It feels sure that the Government of the United States would wish it to reply in the same spirit of frankness and with the same desire to promote effective international understanding and cooperation in this most difficult work.

The Council regrets that the United States Government does not find it possible to accept its invitation. It cordially welcomes however the statement that the Government, in addition to observing its obligations under The Hague Convention, will endeavor to furnish such information as the Permanent Central Board may request. It also notes with pleasure that in the view of the United States Government the Geneva Convention 'in the matter of manufactured drugs and the control transportation' may be regarded as an improvement over The Hague Convention of 1912.

At the same time the Secretary of State put forward specific criticisms of the Geneva Convention. In regard to the first of these criticisms the Council would merely point out that the provisions as regards 'the limitation of the production of raw opium and coca leaves to the medical and scientific needs of the world, and the control of the production and distribution of all opium and coca leaf derivatives' which are referred to as inadequate, represented the maximum of progress upon which agreement could be reached in 1925 by an international conference composed of the accredited representatives of forty-one powers after exhaustive discussions extending over a period of three months.

As to the second criticism made by the Secretary of State the Council desires to emphasize its complete agreement with the opinion of the Government of the United States that the unity of purpose and joint responsibility of the powers is essential to an effective control of the traffic in opium and narcotic drugs. But it cannot share the view that the Geneva Convention tends to destroy the unity of purpose and joint responsibility of the powers accomplished by The Hague Convention. In the judgment of the Council the Geneva Convention should be regarded as supplementary to The Hague Convention. The obligations of the latter remain undiminished. Indeed it is the purpose of the Geneva Convention, as its preamble sets forth, to complete and strengthen the provisions of The Hague Convention. Moreover the Council, having for years pressed for the ratification of The Hague Convention until now it is nearly universally accepted, believes that the effective method of preserving and strengthening such unity of purpose and joint responsibility as exist today amongst the nations is to continue to press for the widest possible ratification of the Geneva Convention in addition to the strictest enforcement of the provisions of The Hague Convention.

The Council has steadily adhered to this view and has striven to give effect to it during the last three years. In doing so it has accepted the advice offered to it by its opium advisory committee.

At every session held during the last three years the advisory committee on traffic in opium and other dangerous drugs has urgently and unanimously pressed upon the attention of the Council their judgment on this matter. The nature and gravity of that judgment [are] indicated in the following passage from a recent report by the committee to the Council: 'The committee regards the immediate ratification and the rigid enforcement of the Geneva Convention of 1925 as the most valuable single step which can at present be taken to combat the illicit traffic. It is glad that this view has been unanimously indorsed by the Council and the Assembly, and it desires to reiterate it. A close examination of all the material connected with the illicit trade which has come before it since its last session serves to confirm the correctness of its views. Time after time, in case after case, the committee has been forced irresistibly to the conclusion that, until the Geneva Convention comes into operation, it will be difficult to secure the effective application of measures which experience has shown to be essential if the illicit traffic is to be effectively checked.' (Report to the Council on the work of the tenth session of the committee, document C. 521. M. 179. 1927. XI.)

In the light of such a judgment the Council while firmly convinced that there ought to be the strictest adherence to the provisions of The Hague Convention cannot share the view of the American Government that 'until there can be devised some substitute for The Hague Convention more satisfactory than the Geneva Convention the eradication of the abuse of narcotic drugs will be more likely to be achieved by strict observance of the provisions of The Hague Convention.'

The Geneva Convention incorporates at least part of the accumulated experience of several years effort in this field such as for instance the import certificate system and the extension of the system of control to crude cocaine, ecgonine, coca leaves and Indian hemp and the provision of definite machinery for still further extension to other drugs; it has been accepted by many states as offering a valuable advance on The Hague Convention and it has already been definitely ratified or adhered to by twenty-seven governments. The Council cannot but feel that the experience gained through its application may determine at no distant date a still further advance towards that goal which the United States in common with other nations has in view.

The Council desires in conclusion to return once more to the point emphasized so strongly by the Secretary of State in his communication—the fact that the traffic in narcotic drugs can be controlled only by international cooperation and by the fullest possible recognition by the powers of their joint responsibility. The Council highly appreciates the cooperation already given by the United States in particular by the transmission of annual reports and by [seizure?] reports, drawn up in accordance with the forms agreed upon by the advisory committee, by the adoption and enforcement of the import certificate system as prescribed by the Geneva Convention, by its interest in the work of the advisory committee and finally by the acceptance of the invitation of the League of Nations to include the Philippines within the scope of the commission of inquiry into the control of opium smoking in the Far East.

The Council earnestly hopes that even if there be no complete agreement on all points the United States Government will continue to extend so far as possible the practical collaboration which thus happily exists."⁸⁵

WILSON

PARTICIPATION OF THE UNITED STATES IN THE INTERNATIONAL TELEGRAPH CONFERENCE AT BRUSSELS, SEPTEMBER 10-22, 1928

572.F1/224

The Secretary of State to the Minister in Sweden (Harrison)

No. 74

WASHINGTON, July 31, 1928.

SIR: During the International Radio Conference held in Washington from October 4 to November 25, 1927,⁸⁶ a Special Committee was organized to consider what action should be taken with respect to the report drawn up at Cortina d'Ampezzo, Italy, in 1926, by the "Committee for the Study of Code Language", provided for by the International Telegraph Conference held at Paris in 1925.⁸⁷

At its fourth plenary session the International Radio Conference adopted the following resolution:

"1. The Washington Conference is not qualified to deal with the question of code language previously studied by the Committee of Cortina d'Ampezzo;

"2. In view of the provisions of Article 15 of the International Telegraph Convention of St. Petersburg⁸⁸ and the reservation formulated by some telegraph administrations not represented at Washington, the Committee constituted by the Radiotelegraph Conference can not transform itself into an International Telegraph Conference to deal with the question of code language.

"Because the solution to be given to the proposals of the Cortina Committee is of an urgent character, the recommendation is expressed that the next International Telegraph Conference, which is to meet at Brussels in 1930, be advanced in accordance with the rules of Paragraph 88 of the International Telegraph Regulations (Paris, 1925),⁸⁹ and be held in 1928, it being understood that only the question of code language shall be treated there."

⁸⁵ The Secretary of State, in telegram No. 111, Dec. 29, to the Minister in Switzerland, announced that John K. Caldwell, Consul General, assigned to the Division of Far Eastern Affairs, Department of State, for special work in connection with the control of traffic in narcotic drugs since June 13, 1928, would "attend unofficially" the 12th session of the Advisory Committee on Traffic in Opium and Other Dangerous Drugs, at Geneva, beginning Jan. 17, 1929 (file No. 500.C1197/229).

⁸⁶ For radiotelegraph convention, see *Foreign Relations*, 1927, vol. 1, p. 288. For proceedings of the conference, see S. Ex. Doc. B, 70th Cong., 1st sess., p. 77.

⁸⁷ See *Foreign Relations*, 1925, vol. 1, pp. 287 ff.

⁸⁸ Signed July 10/22, 1875; League of Nations Treaty Series, vol. LVII, p. 213.

⁸⁹ *Ibid.*, p. 201.

As the French Government is charged with the handling of matters relating to the International Telegraph Union this Government advised the French Government of the action taken on the subject at the Washington Conference and the French Government, through the International Bureau of the Telegraph Union at Berne, requested members of the Union to advise the French Government and the International Bureau whether they desired that the Brussels Conference be advanced from 1930 to 1928.

The American Minister at Berne reported on April 23, 1928,⁹¹ that he had been advised by the International Bureau that the necessary ten countries had requested that the Brussels Conference be held in 1928. The Minister at Berne further stated, on April 28, 1928,⁹¹ that it was believed that the Conference at Brussels would be convened in September or October next.

The Ambassador of Belgium at this Capital, in a note dated July 18, 1928,⁹¹ stated that the Conference would be held at Brussels beginning September 10, 1928, and on behalf of his Government extended an invitation to this Government to send representatives to the Conference.

As the Conference to be held at Brussels will consider the report of the Special Committee drawn up at Cortina d'Ampezzo in 1926, dealing with the question of the use of code language and the related question of the rates to be charged in connection with the use of code language, American concerns engaged in export and import business will be seriously affected by the results of the Conference. This is particularly true since some of the proposals involve the raising of rates for the handling of telegrams. It was believed, therefore, that it would be highly desirable for the United States to participate in the Conference and, accordingly, the invitation issued by the Belgian Government was accepted.⁹¹

The Department recommended to the President that the American delegation consist of yourself as chairman, Mr. John Goldhammer, vice president of the Commercial Cable Company, and Mr. Charles Henry Shedd, Department Manager for Swift and Company, Chicago.⁹¹ The President replied on July 26, 1928,⁹¹ and stated that he approved the appointment of the persons named as the American representatives to the Brussels Conference.

It is expected that the other representatives will be accompanied by Mr. William R. Vallance, of this Department, Lieutenant E. M. Webster, United States Coast Guard, Major William F. Friedman, War Department and Mr. Harry F. Coulter, Department of Commerce, as technical advisors, Mr. Fernand L. J. Dumont as translator

⁹¹ Not printed.

and possibly four clerical assistants. The delegation probably will sail from New York on August 25, 1928, and should arrive in Brussels in sufficient time to confer with you before the Conference is convened.

You are instructed to proceed to Brussels and you should arrange the departure from your post so that you may arrive at Brussels not later than September 8, 1928. You will, of course, be allowed your transportation expenses and subsistence at the rate of fifteen dollars per day for the time that you are away from your post in connection with this Conference.

For your information the Department encloses a copy of Documents of the Committee on the Study of Code Language; a translation of the final report of that Committee; a copy of a report by Major William F. Friedman entitled "Report on the history of the use of Codes and Code Language, the International Telegraph Regulations pertaining thereto, and the bearing of this history on the Cortina Report"; a copy of the Stenographic Report of the Hearing on July 25, 1928, regarding the Cortina report and a copy of a letter dated June 29, 1928, and a questionnaire which was sent to a number of the large users of the telegraph, cable and radio communication facilities.⁹² The report of the Cortina Committee constitutes the agenda for the Conference.

Specific instructions to govern the American delegation at the Conference will be prepared and sent to you as soon as possible.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

572.F1/206: Circular telegram

The Acting Secretary of State to American Diplomatic Representatives in Mexico and Central and South America

WASHINGTON, August 23, 1928—2 p. m.

Department sending delegation to Brussels for representation in International Telegraph Conference beginning there September 10. Proposals of majority of representatives of European Governments recommend changing maximum length of code word from ten letters to five letters and reducing charges by only 25 to 40 per cent. This will result in very considerable increase in costs of international communication for large code users throughout the world and American delegation is being instructed to endeavor to maintain *status quo* as regards method of counting words and rates. Department understands British and Canadian delegations will receive similar instructions.

⁹² Enclosures not printed.

Bring foregoing informally to attention of Government to which you are accredited. Ascertain whether it will have representatives at the Brussels Conference and if so, endeavor to have similar instructions issued to them. Telegraph report.⁹³

CASTLE

572.F1/249 : Telegram

*The Acting Secretary of State to the Ambassador in Belgium
(Gibson)*

WASHINGTON, September 10, 1928—6 p. m.

61. For Harrison. For your information: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Uruguay and Venezuela apparently only Latin American countries which signed International Telegraph Convention signed at Paris in 1925.

Argentina, Brazil and Uruguay have not yet replied to Department's circular telegram.

Honduras, Paraguay and Peru stated they will not be represented at conference.

Panama states that it is sympathetic with Department's desires but may not be represented at conference.

Costa Rica, Guatemala and Haiti have not received invitations. They state however that if they are represented their delegations will be instructed to vote to maintain *status quo*.

Department understands that: Cuba, Dominican Republic, Mexico, Nicaragua and Salvador although apparently not signatories to Paris Convention expect to be represented and to support *status quo*. Cuba and Mexico will appoint their Ministers at Brussels as delegate and observer, respectively. Dominican Consul at Brussels will represent his Government.

Bolivia, Chile, Colombia, Ecuador and Venezuela will vote to maintain *status quo*. Bolivia and Venezuela will be represented by their Ministers at Brussels; Chile will be represented by its Chargé d'Affaires ad interim at Brussels and its Consul at Antwerp; and Colombia will be represented by its Chargé d'Affaires ad interim at Brussels.

Please inform Vallance.

CLARK

572.F1/264 : Telegram

The American Delegation to the Secretary of State

BRUSSELS [undated].

[Received September 24, 1928—10 a. m.]

7. Eighth and last plenary session Telegraph Conference Saturday ended with signing of protocol containing amendments to Paris reg-

⁹³ Reports not printed.

ulations effective October 1929. New regulations maintain ten-letter code word at present rate and definitely state conditions to which they must conform. New conditions will not cause scrapping present codes. Amended regulations also provide for new category of five-letter code words with no restrictions as to formation at two-thirds present charge in extra European regime and three-fourth present charge in European regime. Under latter category unions of plain-language words in five-letter groups also admitted. Amended regulations will therefore not increase cost telegraphic communication to anybody, if anything slight decrease may result from new class five-letter words. Full report being prepared and work of delegation will be completed by September 27. Report will be forwarded by next Embassy pouch.⁹⁴ Account crowded conditions Embassy unable to arrange return passage earlier than October 5th and has approved allowance subsistence to that date.

AM[ERICAN] DEL[EGATION]

PROPOSED DISPOSITION OF PROPERTY HELD BY THE ALIEN
PROPERTY CUSTODIAN⁹⁵

763.72113 Au 7/22

The Austrian Minister (Prochnik) to the Secretary of State

No. 4/70

WASHINGTON, January 4, 1928.

EXCELLENCY: This Legation has obtained information that one of the reasons, if not the chief one, for the delay experienced in the framing of a bill dealing with the return of Austrian property was the lack of sufficient particulars as to the nature and extent of potential claims, which Austrian citizens may have against the United States Government from seized patents, copyrights a. s. f.

If the legislation pertaining to the return of Austrian property is to be framed along the lines as envisaged by my Government, suggested to Your Excellency, and discussed by me with Judge Parker⁹⁶ and Mr. Mills,⁹⁷ I do not see, how the question of potential Austrian claims could in any way interfere with the passage of a legislative measure authorizing the Alien Property Custodian to release Austrian property under certain stipulated conditions—unless the members of the Ways and Means Committee had the German analogue in mind, overlooking or not being aware of quite a different construction contemplated in our case.

⁹⁴ Published by the Department of State under title of *Report of the American Delegation to the International Telegraph Conference of Brussels, September 10-22, 1928, etc.* (Washington, Government Printing Office, 1929).

⁹⁵ Continued from *Foreign Relations, 1927, vol. 1, pp. 301-308.*

⁹⁶ Commissioner, Tripartite Claims Commission.

⁹⁷ Under Secretary of the Treasury.

In the German case a sort of clearing between American claims against Germany and German claims against America had to be resorted to to enable provisions for payment of the awards of the Mixed Claims Commission, the chief prerequisite for the return of property. In the German case the creation of a special fund for the payment of such awards was under consideration and this question could only be solved by retaining part of seized private property, by allotting the unallocated interest and by crediting to Germany a certain amount in compensation for seized ships, radios, patents etc. For this reason it was necessary to estimate and settle on an approximate amount of counter claims in connection with the Bill.

In the Austrian case, however, the American claims against Austria are entirely divorced from the potential Austrian claims against the United States. The awards of the Tripartite Claims Commission will be fully paid by the Austrian Government with Government funds and no request for the return of property is made prior to a moment when the United States Treasury in agreement with Judge Parker is in a position to declare that the Government property already in said Department's Custody and an additional cash amount to be deposited by the Austrian Government are sufficient to cover all American claims.

Austria has always maintained the standpoint that awarded American claims constitute a liability against the Austrian Government to be settled with Government funds and that this settlement in no way should interfere with the liquidation of private claims between the two countries. No matter, whether and when Austrian citizens will obtain redress or compensation for seized patents etc., or when the unallocated interest will be returned to the rightful Austrian owners, the Austrian Government is ready to provide for the payment of American claims awarded by the Tripartite Claims Commission.

Of course, the Austrian Legation could not, for the mere reason of simplifying matters, waive for private citizens of Austria whatever rights they may have or obtain to claim under similar conditions as provided for in the German Bill certain indemnities for seized and used patents. In fact such a waiver would be embarrassing and unacceptable to your Government and Congress as it would create a case of discriminative legislation.

This Legation must, therefore, reiterate its request to have an appropriate clause inserted in the Austrian Bill which would reserve to Austrian owners of patents, copyrights etc. under like or similar conditions the same rights which Congress is willing to grant to German citizens. May I recall in this connection that the Mills Bill when under advice during the last session of Congress

actually contained such a provision in favor of Austria although it otherwise exclusively dealt with German property.

As there is no intention on our part to have whatever claim Austrian citizens may possess credited against the liability incurred by the awards of the Tripartite Claims Commission the question of determining these claims should not interfere with the passage of a Bill for the return of property. Like in the German case a special arbitration procedure shall determine, what if any Austrian claims of aforementioned nature exist, and whether and to what extent they shall be recognized. But as awards against the Austrian Government will be settled by the same regardless whatever the outcome of these arbitration proceedings may be, I see no reason why the potential claims of Austrian citizens should cause a delay in the passage of an act returning Austrian property.

The same applies to the unallocated interest which accrued from Austrian property. We expect and hope that these interest[s] will be returned to the rightful Austrian owners with the seized property, but we do not request that this amount should be computed in or deducted from the total awards to be charged by the Tripartite Claims Commission against the Austrian Government.

Austria, with other words, offers an exchange of securities—Government property for private property—it is anxious to make with Government funds such “other suitable provisions” which Congress stipulated as a prerequisite for the return of seized private property.

Your Excellency would greatly oblige me by bringing the aforesaid to the attention of Congress.⁹⁸

Accept [etc.]

EDGAR PROCHNIK

763.72113/2218

The Swiss Minister (Peter) to the Secretary of State

WASHINGTON, *January 17, 1928.*

SIR: It has been brought to my knowledge that a Bill concerning the return of alien property seized during the war and at present held by the Alien Property Custodian has already passed the House of Representatives of the United States and is now being considered by the Committee of Finance of the Senate. In this connection, I beg to invite Your Excellency's attention to the following:

In pursuance to the enemy trading legislation of the United States, enacted on October 6, 1917,⁹⁹ assets in the United States of certain Swiss individuals and corporations were seized by the Alien Property

⁹⁸ Transmitted Jan. 9, 1928, to the Honorable William R. Green, Chairman of the Committee on Ways and Means, House of Representatives.

⁹⁹ 40 Stat. 411.

Custodian. I understand such measures were justified by the United States on account of the allegation that such individuals and corporations were doing business with firms and persons within those countries with which the United States was at war. During the last years, numerous proceedings were instituted by the Legation and myself with the Department of State and the Alien Property Custodian, in order to obtain the release of those assets, inasmuch as they were owned by individuals and corporations of a neutral State.

The Trading with the Enemy Act was amended by Congress on June 5, 1920,¹ to permit such neutral individuals to recover property seized by the Custodian, but up to the present time no legislation has been enacted relieving certain neutral corporations, and among them certain Swiss corporations, from the enemy status imposed by the Trading with the Enemy Act, and the consequent seizure of their property.

Under the laws of the United States and of Switzerland, the corporate entity is recognized, and the assets belong to it and not to the individuals who might own the shares at any given time: Particularly, following the interpretation of the Trading with the Enemy Act by the Supreme Court of the United States in *Behn Meyer & Company v. Miller*, 266 U. S. 465 [457], corporate entity is considered a person and its nationality that of the country where it is organized and existing, irrespective of the nationality of the stockholders therein. In that case, which concerned a British corporation, the Supreme Court held that the seizure of the corporate assets in the United States by the Alien Property Custodian on the ground that the shares were owned by Germans was an erroneous construction of the law. Such corporations are subject to the usual obligations imposed by the State and are likewise entitled to the equal protection of the laws.

The proposed legislation now pending in the Senate provides in effect, in paragraph 13, on page 27 thereof, that such neutral corporations, in order to recover their property still held by the Alien Property Custodian, shall be obliged, as provided in Section (m) of the proposed Bill, to file a consent that 20% of their property may be retained by the United States, in other words, Section 13 of the proposed legislation makes no distinction between a corporation organized and existing within the countries with which the United States was formerly at war and certain corporations organized and existing under and by virtue of the laws of Switzerland.

If such proposed legislation is finally enacted into law, certain Swiss corporations and in consequence Swiss shareholders therein, will suffer substantial losses. The interested parties are entitled by

¹ 41 Stat. 977.

international law to demand a return of their possessions, and they have the right to expect an immediate and full restitution, as no claims remain to be made as far as they are concerned.

I consequently have the honor, by instruction of my Government and with reference to the treaty of November 25, 1850, between Switzerland and the United States of America,² to request Your Excellency to take such steps as may be appropriate to safeguard the rights of the Swiss corporations and Swiss nationals, particularly with the view of assuring the complete release of Swiss properties which are still held by the Alien Property Custodian.

Accept [etc.]

MARC PETER

763.72113/2218

The Secretary of State to the Swiss Minister (Peter)

WASHINGTON, January 23, 1928.

SIR: I have the honor to acknowledge the receipt of your note of January 17, 1928, in which you request, by instruction of your Government, and with reference to the Treaty of November 25, 1850, between the United States and Switzerland, the complete release of Swiss properties which are still subjected to sequestration measures.

In reply it gives me pleasure to inform you that a copy of your note under acknowledgment has been transmitted to the Chairman of the Committee on Finance of the Senate,³ to which body there has been referred an Act (H. R. 7201)⁴ passed by the House of Representatives on December 20, 1927, which contains *inter alia* provisions for the disposition of property held by the Alien Property Custodian.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

763.72113/2221

The Danish Minister (Brun) to the Secretary of State

J.No.7.T.a/1(2)

No. 5

WASHINGTON, January 23, 1928.

SIR: I beg to refer to previous correspondence concerning compensation for German merchant vessels seized by the United States during the world war and belonging to residents of North Slesvig, who later became citizens of Denmark, lastly your note of April 20, 1926

² Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 5, p. 845.

³ By letter of Jan. 23, not printed.

⁴ Enacted Mar. 10, 1928; 45 Stat. 254.

and the note from this Legation of April 23, 1926,⁵ and to state as follows:

As you no doubt are aware there is now before the U. S. Senate a bill on this subject (H. R. 7201), which was passed by the House on December 20, 1927. The provisions regarding merchant ships are to be found *inter alia* in Section 4 *b*. No. 1 and Section 4 *e*.

These provisions would however appear to have regard only to German nationals, as defined in Section 17, and to have for purpose to indemnify such German Nationals within certain limits and on certain conditions, on which point it is argued that whatever legal rights for compensation the original owners may have had, were wiped out by the provisions of the treaty of Versailles adopted by the treaty of Berlin.⁶ see Report No. 17 of December 15, 1927 from the Committee on Ways and Means of the House page 8.

In these circumstances I beg to suggest that these Danish citizens were not bound by the treaty of Berlin, and that full and unqualified compensation should be granted to them, and I venture to ask you to be so good as to submit this suggestion to the Committee of the Senate. This Committee appears to be about ready to report the bill, and I would be greatly obliged to you if my request could be communicated to the Committee as soon as convenient, in order that an amendment covering the aforesaid Danish interests might be proposed and passed, if deemed proper.

For your convenience I beg to enclose copies of the bill and report in question.⁷

I have [etc.]

C. BRUN

763.72113 Au 7/21

*The Secretary of State to Senator Reed Smoot*⁸

WASHINGTON, January 24, 1928.

MY DEAR SENATOR: It has been brought to my attention informally that some of the members of the Committee on Finance are considering the question whether the Committee should recommend amendments to the "Settlement of War Claims Act of 1928" (H. R. 7201) now being discussed before the Committee for the purpose of providing for the return, under certain conditions, of the Austrian and Hungarian property sequestered by the Alien Property Custodian.

Early last month the Chairman of the Committee on Ways and Means informed me that his Committee was giving attention to that

⁵ Neither printed.

⁶ Between the United States and Germany, signed Aug. 25, 1921; *Foreign Relations*, 1921, vol. II, p. 29.

⁷ Enclosures not printed.

⁸ Chairman of the Senate Committee on Finance.

question, and requested for the information of the Committee a statement outlining the considerations involved therein. Under date of December 10, 1927, I wrote Mr. Green at some length on this subject and transmitted several documents bearing thereon, and since it appears that your Committee is likely to interest itself in the same matter. I feel that you should have before you the same information that I furnished to the Committee on Ways and Means. Accordingly, I take pleasure in transmitting a copy of my letter to Mr. Green of December 10, 1927, and the enclosures thereto.⁹

Since sending the enclosed letter to Mr. Green I have been informed by the Austrian Minister that his Government has no objection to the publication of his note of November 29, 1927.¹⁰ As a result, the request contained in the last paragraph of my letter of December 10, 1927, to the effect that the communications from the Austrian and Hungarian Legations be treated as confidential is now applicable only to the memorandum which the Hungarian Minister submitted to me under date of December 16, 1926.¹¹

I am [etc.]

FRANK B. KELLOGG

763.72113/2212

The Secretary of State to the French Ambassador (Claudel)

WASHINGTON, January 28, 1928.

EXCELLENCY: I have the honor to refer to your Excellency's note of October 3, 1927,¹² regarding the claims of certain Alsace-Lorrainees filed with the Alien Property Custodian to secure certain shares of stock in the Baltimore and Ohio Railroad held in sequestration, and to state that I am in receipt of a communication from the Alien Property Custodian dated January 4, 1928, concerning the matter.¹²

The Alien Property Custodian informs me that the standing of such claimants will not be affected by the enactment of the pending legislation for the return of this sequestered property, excepting that these claimants will not be obliged to prove pre-war ownership. It is added that, however, unless reciprocity is accorded by France to the claims of American citizens, this property can not be returned under the proposed act.

It is also observed by the Alien Property Custodian that he has no present means of identification of the individual claimants to be included in such category nor indication of their citizenship. In these circumstances the claimants would have to await their turn in the administration of claims in excess of thirty-eight thousand.

⁹ See *Foreign Relations*, 1927, vol. I, p. 303.

¹⁰ *Ibid.*, p. 301.

¹¹ *Ibid.*, 1926, vol. I, p. 143.

¹² Not printed.

In order to facilitate an early consideration of the claims of Alsace-Lorraine, now French citizens, for the release of their property, it is suggested that the Department be supplied with a list of the names of the claimants with a notation of the shares of stock claimed and the basic facts of their present French citizenship.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

763.72113/2231

The Danish Minister (Brun) to the Secretary of State

J. No. 7. T. a/1 (2)

No. 14

WASHINGTON, *February 13, 1928.*

SIR: Referring to previous correspondence concerning compensation for German merchant vessels seized by the United States during the world war and belonging to residents of North Slesvig, who later became citizens of Denmark, lastly the note from your Department of January 28, 1928,¹³ I beg to state as follows:

It appears from the enclosed Report No. 273 from the Committee on Finance of the United States Senate,¹³ with regard to the bill H. R. 7201, that under Section 19 an amendment has now been adopted by the Committee granting compensation to the owners of the two vessels *Carl Diederichsen* and *Johanne* within certain limits and under certain conditions. This however does not seem to accord the full and unqualified compensation to which the Danish owners seem to be entitled and which I took the liberty to claim by my note to you of January 23, 1928. I also beg to observe that Danish claims exist not only with regard to the two named vessels, but also with regard to the S/S *Maja*, of Flensburg, which was seized in New York harbor in April 1917. These claims were laid before your Department by my notes of July 20, 1921 and August 18, 1921,¹⁴ on behalf of respectively Mr. Harald Smith (Romø) for a share equal to 1/60 or Mark 5000.—, and Mr. J. C. Poulsen for two shares equal to 2/120 and 3/60 in the said steamship, see the notes from your Department of August 29, 1921 and September 14, 1921.¹⁴

And of course there is a possibility of further similar Danish claims, which have not yet come to the notice of this Legation.

For this reason I did not specify the vessels *Carl Diederichsen* and *Johanne* in my note to you of January 23rd, which on the contrary was intended to cover all such cases.

In these circumstances I beg to suggest that the attention of the Committee of the Senate should be called to my present note, in order

¹³ Not printed.

¹⁴ Neither printed.

that the amendment may be so worded as to cover all Danish claims of this order and grant full and unconditional compensation, if deemed proper.

I have [etc.]

C. BRUN

763.72113 Au 7/23

The Austrian Minister (Prochnik) to the Secretary of State

No. 719/70

WASHINGTON, April 19, 1928.

EXCELLENCY: Section 10, subsection *d*, of the "Settlement of War Claims Act of 1928" provides that all money and other property be held to be owned by the German Government if no claim thereto has been filed with the Alien Property Custodian prior to the expiration of one year from the date of the enactment of the aforementioned legislature.

Under the afore referred to provision certain trusts held by the Alien Property Custodian for owners of Austrian citizenship could become property of the German Government, if, for some reason or other, they should be held not properly claimed within the meaning of the law. With other words, the afore referred to stipulation of the "Settlement of War Claims Act" is apt to deprive Austrian rightful owners of their property, if not special care is taken to protect them from such loss.

In order to be able to fully safeguard the interests of Austrian owners of property seized and held by the Alien Property Custodian, this Legation would highly appreciate Your Excellency's intermediary in having this office enlightened by an authentic statement as to certain points which are doubtful to me, viz.

1.) If an owner had already previously filed a claim for return of that portion of his property, which could be released under the terms of the "Winslow Act",¹⁵ does he now have to file a new claim to protect himself against the application of the above cited stipulation of the Settlement of War Claims Act, or will the filing of the claim in the first instance be considered an act intended to establish his right of ownership to his whole property? With other words, has an owner filed a claim to his whole property within the meaning of the law, when he claimed a portion thereof under the Winslow Act.

2.) Will the Alien Property Custodian in due course and after fulfillment of the prerequisites of the law of 1928, ex officio release the remainder of the property held by him in trust for owners who already had claimed and obtained part of it under the Winslow Act, or will such owners have to make a special application for the release of the

¹⁵ 42 Stat. 1511.

remainder of their property? With other words, will the Alien Property Custodian only act on filing of an application by the owner?

In the latter case, what are the forms to be observed by the applicants? Will the Alien Property Custodian furnish this Legation with the rules and regulations to be followed by applicants and with the pertaining application blanks and printed forms?

3.) How will the interest accrued from the time of seizure up to March 4, 1923 (unallocated interest) be returned to such owners who already have claimed and obtained return of their property under the Winslow Act? Will such owners have to file a special claim for release of above referred to interest, or will the Alien Property Custodian, ex officio allocate the so-called unallocated interest to the trusts already released by him under the Winslow Act?

4.) Some of Austrian owners have property held by the Alien Property Custodian under different trusts. When they made application for return of part of their property under the Winslow Act (up to \$10,000), they filed only their claims against as many of the trusts recorded in their name as seemed sufficient to cover the maximum sum allowed under said law, i. e. \$10,000.— Such owners may be under the impression that they already have established their right of ownership to all the trusts held in their name by having claimed part of their property under the Winslow Act, and they may await further action by the Alien Property Custodian.

Are they justified in above supposition, or would the other trusts, for the return of which they failed to make an application be held unclaimed and thus become property of the German Government?

For instance: A owns \$62,000 held by the Alien Property Custodian in four different trusts, let us say, \$10,000, 15,000, 17,000 and \$20,000.— After the passage of the Winslow Act he merely filed claim for the return of the first trust (\$10,000) as it would have been useless for him to claim the others.

Has now A within the meaning of the law claimed his right of ownership to all the four trusts by having under the Winslow Act filed a claim for the return of one of them (the \$10,000 one), or will he lose the other three trusts to the German Government if he fails to file special claims for each of the remaining three trusts before March 9, 1929?

The afore cited technical and other reasons may in strength of section 10, subsection *d*, of the Settlement of War Claims Act result in losses to rightful Austrian owners. Besides there may be the one or other case where a claim was not filed in proper time because the owner died and the heirs were ignorant of the existence of some property in trust with the Alien Property Custodian to which they would have a rightful claim.

It would seem to me highly important and I would greatly appreciate if Your Excellency would ask the Alien Property Custodian to cause a list of all unclaimed property recorded as Austrian owned to be furnished to this Legation at the earliest possible convenience. This Legation foresees a great deal of work requiring a considerable time in locating the rightful owners of unclaimed property, the more so as the cooperation of the authorities of the Succession States will in all likelihood have to be resorted to, in order to establish beyond doubt the present citizenship of the owners concerned.

It is for this reason that I take the liberty to ask for an early compliance with this request.

Finally I would be thankful for an advice as to the *modus* of procedure to be followed by those Austrian owners, who as yet have not filed claims under the Winslow Act and for whatever other suggestions the Alien Property Custodian could offer to this Legation for a full protection of the rights of Austrian claimants.

Accept [etc.]

EDGAR PROCHNIK

763.72113Hungary/1

The Hungarian Minister (Széchenyi) to the Secretary of State

No. 340/R

WASHINGTON, April 25, 1928.

SIR: On March 10, 1928, under No. H. R. 7201 of the 70th Congress, the "Settlement of War Claims Act of 1928" was enacted by the Senate and House of Representatives of the United States of America in Congress assembled. In section 10 of said Act, bearing the title "Investment of Funds by Alien Property Custodian", on pages 16 and 17, subsection (*d*) contains the following provision:

"The Alien Property Custodian is authorized and directed (after the payment of debts under section 9) to transfer to the Secretary of the Treasury, for deposit in such special deposit account, all money and the proceeds of all property, including all income, dividends, interest, annuities, and earnings accumulated in respect thereof, owned by the German Government or any member of the former ruling family. All money and other property shall be held to be owned by the German Government (1) if no claim thereto has been filed with the Alien Property Custodian prior to the expiration of one year from the date of the enactment of the Settlement of War Claims Act of 1928, or (2) if any claim has been filed before the expiration of such period (whether before or after the enactment of such Act), then if the ownership thereof under any such claim is not established by a decision of the Alien Property Custodian or by a suit in court instituted, under section 9, within one year after the decision of the Alien Property Custodian, or after the date of the enactment of the Settlement of War Claims Act of 1928, whichever date is later. The amounts so transferred

under this subsection shall be credited upon the final payment due the United States from the German Government on account of the awards of the Mixed Claims Commission."

While the Act in question is a unilateral act of Congress, and therefore could not have bearing upon the Trianon Peace Treaty as incorporated in the Treaty Between the United States and Hungary, proclaimed on December 20, 1921, by the President of the United States,¹⁶ nor upon the Tripartite Agreement entered into between the United States, Austria and Hungary on November 24 [26] 1924,¹⁷ without first being acceded to by Hungary, nevertheless in order to enable me to deliver a report on this question to my Government, I beg to call Your Excellency's kind attention to the following:

According to the opinions of the legal experts of the Tripartite Claims Commission, and the German counsels, it is clear that section 10 of the Settlement of War Claims Act of 1928, amending the Trading with the Enemy Act by adding thereto section 25, follows the intention, in subsection (*d*) of the new section 25, to turn over all unclaimed property to the German special deposit account, (1) if no claim has been filed with the Alien Property Custodian prior to March 10, 1929, or (2) if a claim has been filed prior to March 10, 1929, then if title to the property is not established by decision of the Alien Property Custodian or by a suit in court instituted under section 9, within one year after the decision of the Alien Property Custodian, or after the date of the enactment of the Settlement of War Claims Act, whichever date is later. The legal effect of the above provision seems to be that a Hungarian national who fails to make claim with the Alien Property Custodian prior to March 10, 1929, loses his property once and for all. It should be noted that although the Senate report makes reference on page 26 to the "undisclosed trusts", the provisions of subsection (*d*) of section 25 of the Trading with the Enemy Act apply without distinction of any kind to all property of individuals held by the Alien Property Custodian, whether in the undisclosed enemy trusts or not.

According to the opinion of my legal expert, the German national is under the same liability; however, there seems to be a certain discrimination in favor of the German Government as against that of Hungary.

For the time being I have no information whatever with regard to the so-called "undisclosed enemy trusts", but, according to a literal interpretation of said provision, it seems that in cases where a Hungarian national fails to make claim with the Alien Property Custodian

¹⁶ Signed Aug. 29, 1921; *Foreign Relations*, 1921, vol. II, p. 255.

¹⁷ *Ibid.*, 1924, vol. I, p. 152.

dian prior to March 10, 1929, his property—although actually known to have been owned by an identified Hungarian national—would have to become part of the German special deposit account, which procedure would appear to be injurious to Hungary.

This situation might have resulted as a consequence of the fact that the provisions referring to the settlement of war claims against Austria and/or Hungary, or their respective nationals, were incorporated into said Act only by an Amendment made before the Finance Committee of the Senate, and perhaps it was omitted through an oversight to insert the necessary special provisions in sections 5, 6 and 7, dealing especially with the Austrian and Hungarian property. However, in view of the foregoing, I should greatly appreciate it if Your Excellency would kindly inform me at your early convenience regarding the correct interpretation of the provisions of section 10, subsection (*d*).

Accept [etc.]

SZÉCHÉNYI

763.72113 Au 7/24

The Secretary of State to the Austrian Minister (Prochnik)

WASHINGTON, May 9, 1928.

SIR: I have the honor to refer to your note of April 19, 1928, in relation to the possible effect of the provisions of Subsection *d*, Section 10, of the "Settlement of War Claims Act of 1928", upon Austrian owned property and to inform you that the Department has just received a letter from the Alien Property Custodian¹⁸ in which he expresses the opinion that the provisions of Section 25 of the Trading With The Enemy Act as amended by the legislation in question, has reference to German owned property and does not relate to Austrian property. He observes that Austrian owned property may be credited where the citizenship of the persons is not stated or shown. The specific questions raised by you in your letter of April 19, are answered by the Alien Property Custodian as follows:

(1) If the claimant had described all of his property in the old notice of claim no new claim would be required of an Austrian citizen. However, if the claimant has failed to describe his property it would be better that he file a new claim or an amended claim.

(2) Question number one answers question number two, with the exception of that part relating to forms for filing claims and instructions relative thereto. Since there is no deduction of 20% to be made on Austrian property new forms will not be required where the claimant is a citizen of Austria. We shall be glad to furnish any new forms you may desire but since there has been no change in the form for an Austrian claimant I take it that no new blanks will be desired.

¹⁸Letter not printed.

(3) With reference to interest which accrued prior to March 4, 1923, interest will be returned on the claim which has heretofore been filed.

(4) If an Austrian citizen has property in more than one trust and has filed claim under the Winslow Act for \$10,000, but has failed to describe all of his property held in the various trusts it will be necessary for him to file an amended claim describing all of the property.

The Alien Property Custodian states that his office is not in a position at this time to furnish a list of Austrian owners of property, but that he will be glad in due course to cooperate in the matter.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

763.72113 Au 7/25

The Austrian Minister (Prochnik) to the Secretary of State

No. 881/70

WASHINGTON, May 11, 1928.

EXCELLENCY: I have the honor to acknowledge receipt of Your Excellency's note of May 9th, 1928, transmitting to me a communication received by your Department concerning certain questions connected with the Settlement of War Claims Act of 1928.

I take due notice of the Alien Property Custodian's opinion stating that the provisions of Section 25 of the Trading with the Enemy Act, as amended by section 10 *d* of the Settlement of War Claims Act 1928 has reference to German owned property and does not relate to Austrian property.

The following statement of the Alien Property Custodian viz: "He observes that Austrian owned property may be credited where the citizenship of the persons is not stated or shown" is not perfectly clear to me. As I understand this means, that Austrian owned property, as far as no claim thereto has been filed with the Alien Property Custodian prior to the expiration of one year from the date of the enactment of the Settlement of War Claims Act or if any claim has been filed and if the ownership thereof has not been established by the Alien Property Custodian or by suit in court instituted, this property will be credited to the Austrian special deposit account created by section 7 of the Settlement of War Claims Act of 1928.

I should be very obliged to Your Excellency if you could inform me, if this my interpretation is in accordance with the opinion of the Alien Property Custodian.

Accept [etc.]

EDGAR PROCHNIK

763.72113 Au 7/26

The Austrian Minister (Prochnik) to the Secretary of State

No. 104/R

WASHINGTON, May 12, 1928.

EXCELLENCY: Section (7), subsection (b) of the "Settlement of War Claims Act of 1928" makes the release of Austrian property dependent upon two conditions:

(1) that the amounts deposited in the Austrian special deposit account are sufficient to make the payments in respect of awards against Austria and that the Commissioner certifies this fact to the Secretary of the Treasury.

(2) that the Commissioner fix the rate of exchange at which interlocutory judgments shall be converted into money of the United States, and the rate of interest applicable to such judgments.

The second condition has been fulfilled by the Act of the Commissioner of April 9th, 1928.

In order to make the release of Austrian property possible I have by order of my Government the honor to solicit Your Excellency's kind intermediary to obtain a statement by the competent authorities, what conditions they would consider appropriate to issue the certificate provided for by the War Claims Settlement act.

The Austrian Agent has prepared an opinion on the maximum amounts to be paid by Austria on judgments and interlocutory judgments of the Tripartite Claims Commission, of which I beg to enclose a copy.¹⁹ His estimate which seems to me to take into consideration a basis of calculation that will in a high degree exceed the actual payments, totals \$1,257,485.77.

On the other side, the Undersecretary of the Treasury, Mr. Ogden S. Mills, has informed me, by letter of December 2nd, 1927, that the seized property, belonging to the Austrian Federal Government and held under Trust No. 6392 and 2056 amounted to \$195,000.- and \$1,194,000.- or a total sum of \$1,389,000.

The Austrian Government are therefore of the opinion that the aforementioned trusts should seem sufficient to cover the maximum possible awards against Austria and that the release of Austrian property could be entered in a short time.

I should be highly obliged to Your Excellency to cause that this question be taken into earliest possible examination and I avail [etc.]

EDGAR PROCHNIK

¹⁹ Not printed.

763.72113 Au 7/27

*The Alien Property Custodian (Sutherland) to the Secretary of State*²⁰

WASHINGTON, May 23, 1928.

SIR: I have the honor to reply to your letter of May 21,²¹ in which you enclosed a copy of a communication from the Minister of Austria.²²

The Minister desires to know what will become of property seized as belonging to Austrian citizens if no claim is filed within a year or if proof is not submitted as to ownership, as provided in the Settlement of War Claims Act of 1928, and he asks whether or not it would be credited to the Austrian Government under Section 7, of the said Act.

You are advised that it is the view of this office that there is no law authorizing the transfer of said sums. Subsection (g) of Section 25²³ is specific as to what sums should be transferred to this account and it mentions none other than Austrian property or that of a corporation in which all of the stock is owned by the Austrian Government.

Respectfully,

HOWARD SUTHERLAND

763.72113Hungary/5

The Secretary of State to the Hungarian Chargé (Pelényi)

WASHINGTON, June 1, 1928.

SIR: I have the honor to refer to the Minister's note of April 25, 1928, in relation to the provisions of Subsection d, Section 10, of the "Settlement of War Claims Act of 1928", as possibly affecting the interests of Hungarian owners of property seized and held by the Alien Property Custodian and to inform you that the Alien Property Custodian has advised the Department, in respect to the construction which should be placed upon Subsection d of Section 25 of the Trading with the Enemy Act, as amended by the "Settlement of War Claims Act of 1928", that where the office of Alien Property Custodian holds property to the credit of a citizen of Hungary and the records of that office so disclose his citizenship such property would not be credited to the German Government.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

²⁰ On June 15, the Secretary of State transmitted a copy of this communication to the Austrian Minister (file No. 763.72113 Au 7/31).

²¹ Not printed.

²² *Ante*, p. 472.

²³ See sec. 10, 45 Stat. 269, for revised sec. 25.

763.72113/2272a

The Department of State to the British Embassy

MEMORANDUM

On March 10, 1921, the British Ambassador addressed a communication to the Secretary of State²⁴ in which he stated, among other things, that the British Government was desirous of effecting an arrangement under which the British Public Trustee would be able to secure the registration in his own name of the stock of American companies vested in him as enemy property. The note dealt with both bearer and registered stock certificates. As to the former it was suggested that the "situs of the property" in the shares of stock followed the situs of the certificates, and as to the latter it was stated that, although these shares were described and registered, they were in fact endorsed in blank and transferable in practice by delivery of the certificates without any transfer on the register of the company, and that the Public Trustee had been advised that American law appeared to recognize that the situs of the property in such shares was the situs of the certificates. The note proceeded to suggest a method by which the Public Trustee might complete his title in the United States through a decision of the Alien Property Custodian under Section 9 of the Trading with the Enemy Act to the effect that the shares in question vested in the Public Trustee. This, it was suggested, might have the effect of divesting the Alien Property Custodian of the shares. It was added that the British Government would be willing to reciprocate on such basis of settlement.

Later, by a memorandum of April 20, 1921,²⁴ the Embassy referred to the practice of the British Public Trustee in dealing with claims advanced by American citizens and to the attitude of the American Alien Property Custodian and the Attorney General with respect to the consideration of British claims. It was stated that the then existing situation caused numerous difficulties, and that there were also various other questions pending between the Embassy and the Alien Property Custodian's office for which no satisfactory solution had been found by correspondence and it was suggested that, under the circumstances, it would be desirable to have direct conferences between representatives of the Embassy and the Alien Property Custodian.

The Department of State replied by a communication of May 4, 1921,²⁴ to the effect that no objection was perceived to such conferences or to interviews generally between members of the Alien Property Custodian's office or of the Department of Justice, and representatives of the Embassy. The British Ambassador inquired

²⁴ Not printed.

whether it would be agreeable to the Government of the United States for a representative of the British Custodian to come to Washington to confer with the Alien Property Custodian, to which reply was made in the affirmative.

In the early part of October, 1921, conferences were held between the Honorable P. F. Swain, representative of the British Public Trustee, and the Alien Property Custodian. A satisfactory understanding appears to have been reached with respect to the handling of claims of nationals of the respective Governments on account of enemy property seized by the other, and also with respect to the conflict of interests in enemy-owned securities. Mr. Swain requested the aid of the Alien Property Custodian in securing a transfer on the books of American corporations of certificates held by the British Public Trustee where no demand of the Alien Property Custodian had issued. The Alien Property Custodian agreed that all bearer securities in the hands of the Public Trustee which were the obligations of companies incorporated in the United States should be the property of the Public Trustee for England and Wales, and to lend his assistance in effecting a transfer on the books of the companies. Mr. Swain agreed that, where the British Public Trustee held certificates of stock and the Alien Property Custodian had demanded of the companies the right, title and interest in the shares represented thereby, the Public Trustee should forward such certificates to the Alien Property Custodian for his use and benefit. The results of the conferences were later the subject of several exchanges of notes between the British Embassy and the Department of State. Particular reference is made to the note, No. 936 of December 16, 1921, from the British Ambassador to the Secretary of State,²⁶ enclosing two memoranda embodying Mr. Swain's understanding of the arrangement reached between him and the Alien Property Custodian and requesting "confirmation of the understanding"; also, to notes dated January 16 [18?], 1922, February 21, 1922, March 15, 1922, and April 5, 1922,²⁷ in the latter of which the Embassy stated:

"Owing to technical considerations, which have been explained to the Alien Property Custodian, His Majesty's Government are anxious that these understandings should be confirmed at the earliest possible date."

The understanding was confirmed by a note which the Secretary of State addressed to the British Ambassador under date of May 5, 1922,²⁸ in which were set forth comments received from the Alien Property Custodian and the Department of Justice with respect to the subject. The memoranda submitted with the British Ambassa-

²⁶ Not printed.

²⁷ None printed.

²⁸ Not printed.

dor's note of December 16, 1921, covered two principal subjects, namely, (1) enemy-owned shares in American companies claimed by the Public Trustee and by the Alien Property Custodian, and (2) claims by nationals of the respective Governments for the release of property seized by the other as enemy property. The memorandum with respect to shares of stock contained three paragraphs reading as follows:

"1. The Alien Property Custodian on behalf of the United States Government concedes that all bearer securities in the hands of the Custodian and being the obligations of Companies incorporated in the United States shall be the property of the Custodian for England and Wales.

"2. The Alien Property Custodian recognizes on behalf of the United States Government the right of the Custodian for England and Wales to complete his title on the registers of the American Companies to any shares, the certificates of which were deposited in his jurisdiction and have subsequently become vested in him, provided that such shares have not already been claimed by the Alien Property Custodian who, by virtue of the powers vested in him, has placed himself upon the register of certain companies in respect of the shares which he has claimed.

"3. The Alien Property Custodian's agreement to Clause 2 is made conditional on the Custodian for England and Wales surrendering to the Alien Property Custodian in due course all certificates which he holds which represent shares claimed by the Alien Property Custodian as disclosed by his printed list."

As to this memorandum the Alien Property Custodian stated:

"The memorandum submitted with your letter of January 17, 1922,²⁹ embodies most of the points discussed by Mr. Swain and myself. Referring to the memorandum of Mr. Swain, I beg to advise that in connection with the enemy owned shares in American Companies,

(1) This paragraph is too broad and should be worded as follows:

'The Alien Property Custodian concedes that all bearer securities in the hands of the British Public Trustee and being the obligations of Companies incorporated in the United States, shall be the property of the British Public Trustee for England and Wales, where that official for England and Wales holds the actual certificates.'

The Alien Property Custodian did not take over any interest in the bearer securities unless the certificates themselves could be secured. Therefore, where the British Public Trustee holds the certificates for such securities, his claim thereto does not conflict with any rights secured by the Alien Property Custodian, nor is there any objection whatever to the British Public Trustee's ownership in such certificates.

(2) It was recognized by the British Public Trustee that title in the Alien Property Custodian was vested by virtue of his demand where such demand was registered on the books of the companies even though the British Public Trustee might have possession of the

²⁹ Not printed.

certificates themselves. This, of course, does not relate to bearer certificates but only to such securities as were registered in enemy names or in which enemies had a beneficial interest determined by the Alien Property Custodian.

(3) As the ownership of the Alien Property Custodian in the certificates mentioned under (2) was recognized by the British Public Trustee, the British Public Trustee then agreed that it was proper for him to surrender to the Alien Property Custodian such certificates as he held representing securities demanded by the Alien Property Custodian."

This statement was incorporated in the above-mentioned note of May 5, 1922, addressed by the Secretary of State to the British Ambassador.

It will be seen from the foregoing that conflicting interests resulting from the seizures of stock certificates in England and the registering by the Alien Property Custodian of demands for the beneficial interest in the same stock on the books of the companies in the United States were settled. The British Public Trustee recognized, with respect to other than bearer certificates, that title to the stock vested in the Alien Property Custodian by virtue of his demands, where such demands had been registered on the books of the companies, even though the Public Trustee might have possession of the certificates themselves, and agreed that such certificates should be surrendered by the Public Trustee to the Alien Property Custodian.

By a letter dated June 21, 1922, from the Public Trustee to the Alien Property Custodian,³⁰ the former advised that he was taking steps to deliver the certificates held by him which represented shares claimed by the Custodian and inquired as to the manner in which the Custodian would like delivery to be made. Later, by a letter dated August 21, 1922, the Public Trustee advised the Alien Property Custodian³⁰ that he had issued directions that shares of stock in American companies, the certificates of which were deposited in England, were to be dealt with in accordance with the Custodian's wishes and that the certificates were to be surrendered in due course.

Considerable correspondence later passed between the Public Trustee and the Alien Property Custodian, the details of which are not essential to an understanding of the present situation. It would seem to be sufficient to say that there was entire agreement between the Public Trustee and the Alien Property Custodian with respect to the securities here in question, as is shown by the fact that large quantities of certificates falling within the category mentioned were subsequently turned over by the British Public Trustee and his successor, the Comptroller of the Clearing House (Enemy Debts) London, on the basis of a list furnished by the Alien Property Custodian of the securities with

³⁰ Not found in Department files.

respect to which demands had been registered by him on the books of the American companies.

On his part the Alien Property Custodian assisted the Public Trustee in perfecting his claim to stock with respect to which no demand had been made by the Alien Property Custodian on the books of the companies. He also turned over to the Public Trustee certificates issued by a British corporation where demand for the stock had been made by the Public Trustee on the company.

The Public Trustee has now filed three Bills of Complaint (February 24, February 29, and March 2, 1928,) in the Supreme Court of the District of Columbia against Howard Sutherland, Alien Property Custodian, *et al.*, to recover securities turned over by him pursuant to the above-mentioned arrangement. The court actions are understood to be based on the theory that the Public Trustee was under a misapprehension as to his rights under the law with respect to these securities. It apparently is now his intention to contest the principle formerly accepted by him, namely, that by demanding the beneficial interests on the books of the companies, the Alien Property Custodian acquired all interest in the shares as against the Public Trustee who held the certificates. The British Public Trustee apparently regards as favorable to his contention that he is entitled to have the securities returned to him the decision of the Supreme Court in 1925 in the case of the *Disconto-Gesellschaft v. U. S. Steel Co.* (267 U. S. 22), which had to do with certificates of shares in the U. S. Steel Corporation, endorsed in blank and owned and held by German corporations, which were seized in London during the war by the British Public Trustee. While the court held in that case that, under the laws of New Jersey, under which the corporation was organized, as well as the law of England, an endorsement in blank authorizes anyone who is the lawful owner of the paper to write in a name and thereby entitle the person so named to demand registration as owner in his turn on the corporation's books, and that the question as to who is the owner of the paper depends upon the law of the place where the paper is, the court also made the following additional significant statement:

"If the United States had taken steps to assert its paramount power, as in *Miller v. Kaliwerke Aschersleben Aktien-Gesellschaft*, 283 Fed. 746, a different question would arise that we have no occasion to deal with. The United States has taken no such steps. It therefore stands in its usual attitude of indifference when title to the certificate is lawfully obtained. There is no conflict in matter of fact or matter of law between the United States and England and therefore *Baker v. Baker, Eccles & Co.*, 242 U. S. 394, does not apply."

It is important to observe, moreover, that following the rendition of this decision the matter was the subject of fresh discussions between the Comptroller of the Clearing House (Enemy Debts), who

had succeeded to the duties of the Public Trustee, and the Alien Property Custodian, and it was agreed that the decision of the Supreme Court did not in any way alter the situation. The Comptroller, by a communication of February 10, 1925, addressed to the Alien Property Custodian,³² referring to the understanding arrived at between the Public Trustee and the Alien Property Custodian, stated:

“In the case of registered securities, where, under the United States Trading with the Enemy Legislation, you had already seized on the register of an American Corporation ex-enemy holdings therein the certificates of which were in the possession of the Public Trustee, it was understood that such certificates should be surrendered to you, and on the other hand, where no such seizure had taken place, no objection would be raised by you to their sale by the Public Trustee under the charge imposed upon enemy property by virtue of the permissive provisions of the various Treaties of Peace.”

The Comptroller added that, as administrator of Austrian, Hungarian and Bulgarian property, he had discharged duties analogous to those theretofore performed by the Public Trustee in relation to German property, and that he considered himself “honourably bound to give effect to the above arrangement even in cases where the certificates were never in the possession of the Public Trustee but came direct to me as Administrator from other sources”, and requested the Alien Property Custodian to furnish him with an authoritative list revised to date of enemy-owned securities seized by the Alien Property Custodian in the circumstances stated above. He further stated:

“In view of the decision of the U. S. Supreme Court in the recent Appeal by the Disconto Gesellschaft and the Bank fuer Handel und Industrie, the rights of holders of endorsed certificates have recently been authoritatively determined, and it may be that in view thereof, you will not desire the delivery of these certificates even if they are in fact amongst those in respect of which you had registered demands with these Corporations, but that is a matter for your consideration. So far as I am concerned, I am prepared to give effect to the understanding between you and the Public Trustee referred to above, irrespective of whether but for such an understanding, you would have been entitled to such delivery.”

In replying to this communication the Alien Property Custodian, by letter of March 14, 1925,³² observed with respect to the decision of the Supreme Court that:

“This case did not deal with any shares in which the American custodian had demanded any interest, and consequently there is no

³² Not printed.

necessity for modifying in any manner the arrangement which has existed between this office and the British Public Trustee.

The recent Supreme Court case concerned only shares in American corporations held abroad by other than the rightful owner, in which shares the American custodian claimed no interest.

We trust that the arrangements heretofore existing between your predecessor in office and the American Custodian may be continued, and we assure you of our willingness to cooperate in any way that will advance our mutual interests."

This latter communication was acknowledged by the Comptroller of the Clearing House by letter dated April 21, 1925,³³ in which with respect to the court decision in question he stated:

"I note, and[,] if I may respectfully say so, concur in, the view you express that the recent decision of your Supreme Court does not apply to cases where you, as representing your Government, had intervened, to claim the interest over the ex-enemy holdings in American Corporations even though the certificates themselves were held outside the United States. In such cases, purely as an expression of my personal opinion, I am disposed to agree that, by virtue of the right of eminent domain, a Government has supreme power over its Corporations as against all comers. I am therefore prepared to subscribe to the arrangement come to by you with Mr. Simpkin, the British Public Trustee."

It is worthy of mention that this construction of the law and of the decision of the Supreme Court is advanced and relied upon in an action recently instituted in Canada by the Canadian Alien Property Custodian against the American Alien Property Custodian and others, in which the situation presented in the actions filed by the Public Trustee is reversed, i. e., the Canadian Custodian claims title by virtue of vesting orders to securities of Canadian corporations as against the American Custodian who had seized the stock certificates actually in this country. The contentions of the Canadian Custodian in the Canadian action are diametrically opposed to those of the Public Trustee in the actions filed in the District of Columbia. It is understood that Coudert Brothers of New York represent both the Canadian Custodian and the British Public Trustee.

Following the despatch of his letter of April 21, 1925, the Comptroller of the Clearing House delivered certificates to the Alien Property Custodian who surrendered them to the companies and obtained from the latter new certificates registered in his name.

The British Public Trustee is a corporation sole. It is at the same time an arm of the British Government to the same extent and in the same manner that the Alien Property Custodian is a governmental agency. The arrangement, therefore, between the Public

³³ Not printed.

Trustee (and later the Comptroller of the Clearing House) on the one hand, and the Alien Property Custodian, on the other hand, was an arrangement between official agencies of the two Governments and had the sanction of the two Governments, as is shown by the fact that the principal correspondence was conducted between the Department of State and the British Embassy.

In view of these facts and the further fact that the arrangement was carried out in good faith on both sides, it would seem that it should now be observed. The court action is in effect a suit by the British Government against the Government of the United States.

The Public Trustee states as a reason for the suit that at the time he entered into the arrangement with the Alien Property Custodian he had been misled by a mistaken interpretation by the Custodian of American law, and that relying upon such interpretation he delivered the securities to the Alien Property Custodian. The authorities of the United States do not admit that the arrangement was effected as a result of any alleged mistaken interpretation of the law, or that a mere mistake, if there was one, on the part of the Public Trustee as to his rights under the law is sufficient, in the absence of some element of fraud, to entitle him to repudiate an arrangement which was reciprocal in character and which has been fully executed.

Generally speaking, the Government of the United States favors appeal to the courts for the settlement of justiciable questions, but it feels that the facts in this case hardly warrant the action which has been taken. There is, apparently, no allegation that the Alien Property Custodian took advantage of the Public Trustee. No fiduciary relationship existed. They were endeavoring to settle conflicting interests according to legal principles and on an equal footing, and neither should now be heard to complain that he failed to inform himself of his rights under the law.

It is suggested that the British Government may desire to consider whether, under the circumstances, the Public Trustee should be instructed to discontinue the court actions. If the actions are prosecuted, the Government of the United States will, of course, be under the necessity of showing in defense that the action of the Public Trustee is in repudiation of an arrangement entered into in good faith and scrupulously observed by the Alien Property Custodian. This might conceivably prove embarrassing to both Governments.

WASHINGTON, *June 16, 1928.*

763.72113 Au 7/32

The Secretary of State to the Austrian Minister (Prochnik)

WASHINGTON, June 22, 1928.

SIR: The Department refers to your note of May 12, 1928, in relation to your desire to obtain a statement from the proper authorities regarding the fulfillment of conditions necessary to the certification by the Commissioner, Tripartite Claims Commission, of the amounts deposited in the Austrian Special Deposit Account as a precedent to the payment of awards made by the Commission in respect of claims filed with the Commission, and is pleased to furnish you with the following statement, dated June 5, 1928, of the Commissioner, the Honorable Edwin B. Parker, in reply to a letter addressed to him by the American Agent, Tripartite Claims Commission:

"Replying to your letter of this date and returning herewith the note dated May 12, 1928, addressed by the Austrian Minister at Washington to the Honorable Frank B. Kellogg, Secretary of State, with copy of the memorandum of the Austrian Agent before this Commission dated May 10, 1928, which accompanied same, I beg to advise:

"(1) Practically all of the cases against Austria submitted to the Commissioner have been decided by him.

"(2) Memorials against Austria have been filed in 119 cases not yet submitted to the Commissioner (throughout this letter treats each separate part of a docket number as a case).

"(3) Claims against Austria have been filed in 104 cases in which no memorial or agreed statement of facts has yet been filed.

"(4) As the Austrian Minister points out, the return to Austrian nationals of property in the hands of the Alien Property Custodian of the United States is conditioned upon the Commissioner first certifying to the Secretary of the Treasury that the amount deposited in the Treasury of the United States in the Austrian Special Deposit Account is sufficient to pay the judgments of this Commission and also its interlocutory judgments converted at the rate of exchange with interest prescribed by the act of the Commissioner of April 9, 1928.

"(5) It is manifestly impossible for the Commissioner to make the certificate mentioned in the foregoing paragraph numbered 4 without accurate knowledge of the maximum of the judgments or interlocutory judgments which can be rendered against Austria in the claims mentioned in the foregoing paragraphs numbered 2 and 3.

"(6) The Austrian Agent has stated to me this afternoon that he is convinced that all save a small percentage of the cases mentioned in the foregoing paragraphs numbered 2 and 3 can be submitted to the Commissioner on either (a) an agreed statement of facts by the two Agents or (b) a statement of facts by the American Agent. If this is correct, then it is hoped that such submissions can be made prior to or shortly after July 1st next, and that memorials will be promptly filed in the few remaining cases.

"(7) With a view to facilitating this work on the part of the respective Agents and their staffs, the Commissioner is having prepared a list of all docketed cases not yet submitted and will call this docket at a meeting of the Commission to be held at 10 o'clock a. m. on next Friday, June 8, at which time the respective Agents and their counsel should be prepared to give the status of each case and when and in what form it will be ready for submission to the Commission.

"The Commissioner is doing everything within his power to complete the work of the Commission at the earliest possible moment. He is anxious to facilitate and hasten the payment both of the amounts claimed by Austrian nationals held by the Alien Property Custodian and the amounts to be paid to the American nationals in pursuance of the provisions of the Settlement of War Claims Act of 1928. To that end the Commissioner bespeaks the wholehearted cooperation of both Governments and their respective Agents."

The Commissioner adds:

"The foregoing statement does not include cases pending before this Commission against Hungary only. A separate docket of such cases will be prepared and called at the meeting mentioned in paragraph 7 hereof, to be held Friday morning next."

Accept [etc.]

For the Secretary of State:

ROBERT E. OLDS

763.72113Hungary/6

The Hungarian Chargé (Pelényi) to the Secretary of State

No. 492/R

WASHINGTON, June 26, 1928.

SIR: I have the honor to refer to the note of the Secretary of State of June 1, 1928, to the effect that the Alien Property Custodian has advised the Department of State in respect to the construction which should be placed upon Subsection *d* of Section 25 of the "Trading with the Enemy Act", as amended by the "Settlement of War Claims Act of 1928," that where the office of the Alien Property Custodian holds property to the credit of a citizen of Hungary and the records of that office so disclose his citizenship, such property would not be credited to the German Government.

I beg to assure your Excellency that my Government will greatly appreciate the assurance given in your above communication. The construction placed upon Subsection *d* of Section 25 by the Alien Property Custodian, however, opens two questions of great interest to my Government, namely, what time limit, if any, is fixed by the Act in question within which claims for return of property by Hungarian nationals must be filed, and what disposition does the Act require shall be made of unclaimed property of persons admittedly Hungarian

nationals? I should be happy if you would ascertain the views of the Alien Property Custodian on these two questions.

In connection therewith may I ask your Excellency to be good enough to ascertain from the Alien Property Custodian:

the total amount of Hungarian property now held by the Alien Property Custodian;

the trust numbers and the respective amounts entered on same;

the amount of the so-called unallocated interest which has been or will be allocated to the total of Hungarian trusts.

Accept [etc.]

JOHN PELÉNYI

763.72113Hungary/12

The Secretary of State to the Hungarian Chargé (Pelényi)

WASHINGTON, August 3, 1928.

SIR: I have the honor to refer to your note of June 26, 1928, in relation to your desire to obtain further information in regard to the construction placed by the Alien Property Custodian upon Subsection (d) of Section 25 of the "Settlement of War Claims Act of 1928" and with regard to certain other matters and to inform you that the Alien Property Custodian has advised the Department that property held by his office to the credit of Hungarian citizens will not be credited to the German Government and that there is no time limit in which to file a claim for a Hungarian citizen.

With reference to the other questions raised, the Alien Property Custodian informs the Department that he will be glad to furnish to the Hungarian Government a list of persons for whom his office holds assets and the amounts thereof when the release of Hungarian property is begun, but at the present time his office does not have a sufficient force to give the matter appropriate attention.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

862.85/1647

*The Acting Secretary of State to the First Secretary of Embassy in France (Wilson)*³⁴

WASHINGTON, August 21, 1928.

DEAR MR. WILSON: I enclose a copy of a letter and memorandum dated August 18, 1928, from the Office of the War Claims Arbitrator under Settlement of War Claims Act of 1928,³⁵ requesting replies to nine

³⁴ Edwin C. Wilson was also Acting American Observer on the Reparation Commission at Paris.

³⁵ Not printed.

queries calling for information which would be helpful to the Arbitrator in determining the value of seized German shipping. The Arbitrator is holding the first public hearing in this matter on September 17 and his office requests that replies to the queries be in its hands, if possible, by September 15.

You are requested to transmit to the Department such information responsive to the Arbitrator's queries as may be possible within the time limitation indicated.

I am [etc.]

W. R. CASTLE, JR.

862.85/1648

The Chargé in France (Armour) to the Secretary of State

PARIS, September 7, 1928.

Reparation

[Received September 15.]

SIR: I have the honor to acknowledge the receipt of the Department's letter (EA) dated August 21, 1928, enclosing a copy of a letter and memorandum from the office of the War Claims Arbitrator under the Settlement of War Claims Act of 1928, requesting replies to nine queries concerning the valuation of German shipping by the Reparation Commission.

After search through the Commission's records and consultation with the competent officials I beg to transmit as hereinafter replies to the queries of the War Claims Arbitrator.

I. Queries 1-4 inclusive. As for ships delivered prior to May 1, 1921, credit was given Germany on a lump sum basis without placing a value upon each separate ship. The lump sum valuation was adopted by the Reparation Commission on the basis of a memorandum submitted by Mr. Boyden (Annex 1079).³⁶ Debits to the Allied Powers were passed, in the case of Great Britain, on the basis of the actual price realized by the sales of the vessels; in the case of other Allied Powers, on the basis of prices realized by the sale of similar ships on the British market.

As regards post-May 1, 1921, deliveries, both credit to Germany and debits to the Allied Powers were given on the basis of the actual sales price of the vessels.

Detailed accounts showing the calculation of the debits to the Allied Powers (see Annexes 1214 *a-b*, 1248, and Reparation Commission decision 1743) were circulated in the form of statements Nos. 1-19, and were transmitted to the Department on the respective dates of March 14, April 9, 1925, and March 26, 1926.³⁷ These accounts give tonnage figures, sales prices, depreciation charges, costs of repairs, etc.

³⁶ Not printed.

³⁷ None printed.

II. Queries 5-9 inclusive. No ships were completed and delivered by Germany under paragraph 5 of Annex III of the Treaty.³⁸ The two ships ordered for French account under Annexes 1458 *a-e* and 1508 *a-b*³⁹ were laid down in Germany but construction was subsequently suspended (presumably following the Ruhr occupation). After the Dawes Plan entered into force new contracts were made for the completion of the ships in question and for payments out of the Dawes Annuities. The value of the two orders amounted to the same sums as those mentioned in Annex 1508 *a*² under the original order, i. e., 6 million gold marks and 8 million 500 thousand gold marks. It is understood that these ships have been completed and delivered and that payment therefore has been made from the Annuities.

As to the two ships ordered for Italian account under Annexes 1703 *a-d*,³⁹ it appears that they were never built. Their construction was either not begun at all or was suspended at an early stage because of the Ruhr occupation (a search of the Commission's records does not reveal definite information as to whether construction of these ships was ever actually begun but it is certain that they were never completed and delivered).

The records of the Commission indicate that the only orders passed for construction of ships under paragraph 5 of Annex III of the Treaty were those referred to above.

I have [etc.]

For the Chargé d'Affaires ad interim:

EDWIN C. WILSON

763.72113 Au 7/33

The Austrian Minister (Prochnik) to the Secretary of State

No. 1900/70

WASHINGTON, October 6, 1928.

EXCELLENCY: Sect. 7 of the "Settlement of War Claims Act of 1928" provides for the creation of an Austrian special deposit account and authorizes the Alien Property Custodian to transfer into said account all property of the Austrian Government including a trust held by him in the name of the K. K. Österreichische Tabak Regie (Austrian Tobacco Monopoly).

The said Act furthermore provides for the release of Austrian property under the provision that the Commissioner of the Tripartite Claims Commission certifies to the Secretary of the Treasury, that the amounts deposited in the said Austrian special account are sufficient to make the payments authorized by subsection (*b*) of Section 5 in respect of awards against Austria.

³⁸ i. e., Treaty of Versailles, June 28, 1919; Malloy, *Treaties*, 1910-1923, vol. III, pp. 3329, 3430.

³⁹ Not printed.

Whereas a number of awards were passed by the Commissioner and are awaiting payment out of funds in the Austrian special deposit account; and whereas the work of the Tripartite Claims Commission is nearing that point of progress where the Commissioner will be in a position to determine the maximum total of American claims against Austria and form an opinion whether the same seems to be sufficiently covered by whatever amount is deposited in said Austrian account, I have the honor to solicit on behalf of my Government Your Excellency's kind intermediary with a view of having at the earliest possible convenience transferred to the Austrian special deposit account all property of the Austrian Government seized by the Alien Property Custodian in accordance with the Trading with the Enemy Act, including the trust held in the name of K. K. Österreichische Tabak Regie (Austrian Tobacco Monopoly).

An early compliance with this request will be highly appreciated by my Government.

Accept [etc.]

EDGAR PROCHNIK

763.72113/2335

The Chargé in Rumania (Patterson) to the Secretary of State

No. 643

BUCHAREST, *October 6, 1928.*

[Received October 29.]

SIR: I have the honor to transmit herewith a copy and translation of a note, No. 259511, dated October 3, 1928, received from the Ministry of Finance⁴⁰ asking that steps be taken to hasten the release of the assets of the Austro-Hungarian Bank seized by the Alien Property Custodian in order that the portion of these assets assigned to Rumania might be available to it as soon as possible.

It appears that the property of the Austro-Hungarian Bank in the United States was taken over by the Alien Property Custodian during the war, and that under the treaty of peace between the United States and Austria⁴¹ no disposition can be made thereof until the Austro-Hungarian Government or its successors shall have made suitable provision for the satisfaction of all claims against these governments by citizens of the United States. A commission was appointed in Washington to determine the amount of the guarantees to be given by Austria and Hungary as a condition for the release of the property seized, but this commission, it appears, has not as yet rendered a decision and the property cannot therefore be disposed of.

The Rumanian Government claims \$80,000 as its share of the proceeds of the bank's liquidation in the United States and is very

⁴⁰ Not printed.

⁴¹ Of Aug. 24, 1921; *Foreign Relations*, 1921, vol. I, p. 274.

anxious to realize on this amount. The Ministry of Finance has therefore asked the Legation to bring this matter to the attention of the Department in the hope that the decision of the special commission may be hastened and the funds released.

I have [etc.]

ROBERT R. PATTERSON

763.72113 Au 7/36

The Alien Property Custodian (Sutherland) to the Secretary of State

WASHINGTON, October 15, 1928.

SIR: Replying to your communication of October 13th,⁴² with which you enclosed a copy of the communication from His Excellency, the Austrian Minister,⁴³ which has reference to the transferring of funds belonging to the Austrian Government, including the K. K. Oesterreichische Tabak Regie (Austrian Tobacco Monopoly).

You are advised that I have ordered the necessary procedure to be taken to comply with this request.

Very truly yours,

HOWARD SUTHERLAND

763.72113/2344

The British Embassy to the Department of State

MEMORANDUM

The memorandum communicated to His Majesty's Embassy by the State Department of the United States on the 16th June last respecting the test suits instituted in the United States Courts with a view to determining the proper disposal of certain ex-enemy securities now held by the Alien Property Custodian was duly submitted to His Majesty's Government, who have now furnished their observations thereon.

That document appears to disclose a mistaken conception of the character of the negotiations which took place between Mr. P. F. Swain, of the Public Trustee's Department, the Alien Property Custodian and the Department of Justice in October 1921. It is suggested in the memorandum that these negotiations resulted in something in the nature of an agreement between the two governments which involved mutual concessions, and it is further suggested that, in bringing the present suit against the Alien Property Custodian, the Public Trustee is endeavouring to repudiate an arrangement entered into in good faith and scrupulously observed by the Alien Property Custodian. His Majesty's Government regret that they are unable to concur

⁴² Not printed.

⁴³ *Ante*, p. 487.

in the construction placed by the Government of the United States upon the discussions between Mr. Swain and the Alien Property Custodian and they must repudiate the suggestion that there has been any breach of faith on the part of the Public Trustee. The issue, indeed, does not appear to be one involving legal or theoretical interpretation but appears rather to have been defined by a clear and unambiguous declaration made by the Secretary of State of the United States at the time when the negotiations took place. In his note of May 5th, 1922 to His Majesty's Embassy Mr. Secretary Hughes was at pains to leave it beyond doubt that the negotiations were not to be considered as in any respect an endeavour to reach an agreement between the two Governments, but were to be regarded solely as "efforts . . . to explain the law". The Secretary of State proceeded:—

"You will of course understand that the Department in transmitting this information does not undertake to enter into any agreement on behalf of the Government of the United States respecting the interpretation or the execution of the law of this country, relating to sequestered property, the administration of which rests with the Attorney General and the Alien Property Custodian. However, in accordance with your request, I take pleasure in setting forth the understanding of officials of the Department of Justice and the Alien Property Custodian with regard to the efforts made by them and by the representative of the British Public Trustee to explain the law of their respective Governments with regard to the return of sequestered property.

"The American officials concerned point out that they did not undertake to enter into any agreement at the conference with Mr. Swain, but that the purpose of the conference was merely to clarify the provisions of the law and regulations of Great Britain and the United States respectively, with regard to enemy property and applications for its return".

As a result of this communication His Majesty's Embassy at Washington telegraphed to the Foreign Office on May 10th, 1922 as follows:—

"I have now received State Department's reply. . . . It repudiates idea that Mr. Swain's conference can be said to have resulted in an 'agreement' and contends that their object was merely to clarify the provisions of existing laws and regulations on both sides".

This express disclaimer of any intention to enter into an agreement was reiterated in a letter from the Alien Property Custodian to Mr. Hughes dated 28th June, 1922,⁴⁴ in which he said:—

"This (memorandum) was not an agreement between this office and the British Government, but was merely a conference to arrive at a thorough understanding as to procedure.

⁴⁴ Not printed.

“As I heretofore stated the conference was not for the purpose of entering into an agreement but merely for the purpose of clarifying the provisions of the Law of the various Governments with regard to enemy property. The memoranda which were drawn up are merely statements of the explanations rendered in connexion therewith and the procedure adopted by the two Offices. An official approval, if you so desire, may be given to the British Embassy, but such approval need not be in the form of an agreement, but merely a statement that the understanding of this Office and of the British Public Trustee as to the conversations had is correct”.

Having regard to the above declarations on the part of the United States Government themselves and of their officials, His Majesty's Government, as stated above, cannot agree that the present claim by the Public Trustee constitutes in any way whatsoever a repudiation of an agreement honourably entered into or a breach of good faith as between the two Governments or their representatives. On the contrary, the suit is merely an attempt to obtain from the United States Courts, having jurisdiction in the matter, a definite interpretation of the legal position having regard to pronouncements of the law which occurred subsequently to the above-mentioned negotiations, and which have placed a quite different legal interpretation upon the facts under consideration.

It may be added that all the allegations contained in the memorandum under reply as to the existence of an agreement have been raised as a legal issue in the pending suits. There is no reason to apprehend that the eminent judges of the United States Courts, before whom the case will come, will not find a satisfactory solution to this issue, as well as the other issues raised by the respective parties.

While it is not necessary in the circumstances to enter into a detailed discussion of the various subsidiary questions raised in the memorandum, attention may be usefully drawn to the following points:—

(1) Not only do the United States Government appear to be under a misapprehension in assuming the existence of an agreement, but they are also apparently labouring under some misapprehension when the suggestion is made in their memorandum that any concessions or considerations of value were furnished by the Alien Property Custodian. It is sufficient again to cite a declaration by the Alien Property Custodian on this point. In a letter to Senator Borah on 27th July, 1926, the then Alien Property Custodian wrote:—

“Colonel Miller (the former Alien Property Custodian) did not waive any rights of the United States Government by his agreement not to issue demands for those shares of stock, the actual certificates of which were held by the British Public Trustee, and for which no demand had been issued by this Office. At the time he made this agreement this Office had no right or authority to issue demands for

any property not already the subject matter of a demand. Had he issued demands at this time he would have acquired nothing. His act would have been nullity. He simply agreed to do that which under the law he was bound to do.

“He waived no right he was not compelled to waive by law”.

The Alien Property Custodian is evidently referring to the fact that his right to make further seizures of enemy property terminated on July 2nd, 1921. In these circumstances, it is clear that any assistance which the Alien Property Custodian may thereafter have rendered to the Public Trustee by informing American Corporations that he (the Alien Property Custodian) made no claim to various securities then in the hands of the Public Trustee (which the Public Trustee desired to have transferred on the books of the Corporations) was a matter purely of voluntary courtesy and was not required by the actual terms of the correspondence.

In point of fact the various Corporations, whether so requested or not, refused not unnaturally to enter the Public Trustee upon their registers unless and until he had established in the Supreme Court of the United States his legal right to be registered.

(2) It is stated in the State Department's memorandum that the Alien Property Custodian handed over to the Public Trustee certificates issued by a British Corporation where demand for the stock had been made by the Public Trustee on the Company. The Administrator of German Property has been unable to trace the delivery by the Alien Property Custodian to the Public Trustee of the certificates relating to any stock or shares in British Corporations which had been seized by both Custodians. In this connexion, it may be pointed out that the certificates of registered stock or shares issued by British Corporations differ from those issued by American Corporations in that they contain no endorsement of a transfer, and thus, unlike those of American Corporations, confer no title upon and are of no value to the person into whose possession they may come.

Moreover, even if there were any shares in British Corporations claimed by the Alien Property Custodian as well as by the Public Trustee, the seizure by the British Custodian would, owing to the fact of the earlier entry of Great Britain into the war, have been prior to the claim of the Alien Property Custodian. The legal right of the British Government to priority with respect to such securities was therefore quite clear and this principle has been expressly recognised in the present claim by the Public Trustee, who has refrained from making any claim to American securities which had been seized by the Alien Property Custodian prior to the seizure of the certificates by the Public Trustee. The delivery by the Alien Property Custodian of securities to which he had no title, even if effected, could, therefore,

have constituted no consideration for the delivery by the British Public Trustee of securities to which he had a legal title and which he was therefore under no obligation to surrender.

(3) Reference is made in the memorandum of the State Department to the suit now pending in Canada between the Alien Property Custodian of the United States and the Canadian Custodian, in which the situation presented in the action brought by the Public Trustee is, it is alleged, reversed, the Canadian Custodian claiming title by virtue of vesting orders to securities of Canadian corporations as against the American Alien Property Custodian, who has seized the certificates situated in the United States. The memorandum claims that the contentions of the Canadian Custodian are diametrically opposed to those of the Public Trustee. Such a claim appears to overlook the fact that this argument is equally applicable to the Alien Property Custodian, as the contentions of the Alien Property Custodian, *vis-a-vis* the Public Trustee, are diametrically opposed to his contentions in the case which he has instituted in the Canadian Courts. This fact only throws into stronger relief the desirability of securing a definitive legal decision on these difficult and highly abstruse questions of jurisprudence. It may be remarked here, however, that there is one not unimportant difference between the position in the Canadian case and that in the case brought by the Public Trustee. In the memorandum of the State Department it is stated that Mr. Swain agreed that, where the Public Trustee held certificates of stock and the Alien Property Custodian had demanded of the companies the right, title and interest in the shares represented thereby, the Public Trustee should forward such certificates to the Alien Property Custodian "for his use and benefit." So long as the Government of the United States were holding all German property as security for the claims of United States nationals against Germany, His Majesty's Government might have felt impelled to permit the situation to stand, however mistakenly created and however unevenly it may have operated against British interests. The United States Government have, however, been directed by Congress to return the proceeds in question to German nationals, and His Majesty's Government, therefore, now find themselves in the position of having, under a mistake as to their title, delivered the possession of the securities for the ultimate benefit of German nationals and not "for the use and benefit of" the Alien Property Custodian. No parallel situation exists in the case of the Canadian securities, for these are claimed by the Canadian Custodian as subject to the charge imposed pursuant to the Treaty of Versailles, and there is no question of the property being claimed with a view to its ultimate release to German nationals.

In the action which he has taken, the Public Trustee is merely exercising the same right which might be exercised by a citizen of the United States or by certain classes of neutrals who desired to claim

that some particular property, which was in the physical possession of the Alien Property Custodian, was not, in fact, enemy property. The whole procedure under the American Trading with the Enemy Acts was based upon the theory that the Alien Property Custodian was entitled to possession of anything that he might see fit to demand, but that all questions of title were reserved for the ultimate determination of the Court upon the application of any interested party.

In the circumstances referred to above, the Public Trustee delivered certain securities to the Alien Property Custodian, who does not appear to have given any legal consideration for or to have changed his position in any way by reason of such delivery. The decision of the United States Supreme Court in the case of *Direction der Disconto Gesellschaft versus United States Steel Corporation, Public Trustee, et al* indicates that a large part of the securities so delivered were not enemy owned at the time when the Alien Property Custodian made claim to them, or even at the time when the United States entered the war. The Public Trustee has accordingly brought a suit for the purpose of determining which securities or which categories of securities had been divested of all enemy character, either before the entry of the United States into the war or before the enactment of the American Trading with the Enemy legislation or before the Alien Property Custodian, in fact, made any claim. The submission of these questions to the American Court especially charged by the Trading with the Enemy Act with the function of determining all questions of title under that Act cannot, in the view of His Majesty's Government, be properly regarded as departing in any way from any agreement or understanding existing between the two governments. His Majesty's Government have given the matter most careful consideration but, for the reasons explained above, they regret that they do not see their way to instruct the Public Trustee to discontinue the Court actions.

WASHINGTON, *October 30, 1928.*

PROPOSALS TO EUROPEAN COUNTRIES FOR AGREEMENTS AND TREATIES REGARDING NATURALIZATION, DUAL NATIONALITY, AND MILITARY SERVICE

711.004/9

*The Secretary of State to the Honorable Stephen G. Porter*⁴⁵

WASHINGTON, *March 1, 1928.*

MY DEAR MR. PORTER: I have received your letter of February 23⁴⁶ enclosing a copy of H. J. Res. 195, introduced by Mr. Kelly on February

⁴⁵ Chairman of the Committee on Immigration and Naturalization of the House of Representatives.

⁴⁶ Not printed.

7, and asking for a report or recommendation of the Department concerning the same. The Resolution in question provides as follows:

“That the President be, and he is hereby, authorized and requested to at once begin negotiations looking to agreements and treaties with the other nations that persons born in the United States of foreign parentage, and naturalized American citizens of foreign birth, who have possessed certificates of citizenship for more than five years, shall not be held liable for military service or any other act of allegiance during a stay not exceeding one year in duration in the territory subject to the jurisdiction of such nations.”

It seems desirable to consider separately the cases of persons of foreign birth who have acquired citizenship of the United States through naturalization and persons who are born in the United States of alien parents and who claim citizenship of the United States under the provision of the Fourteenth Amendment to the Constitution.

As to the cases of naturalized citizens attention is called to the fact that there are at present valid treaties of naturalization between the United States and certain foreign countries, under which the latter have agreed to recognize the American nationality of their former nationals who have obtained naturalization in this country. Under the provisions of these treaties it is possible for naturalized American citizens to visit their countries temporarily without molestation, although they may be punished for offenses committed before their emigration. Most of these treaties, however, contain provisions to the effect that, if a naturalized citizen resumes residence of a permanent character in the country of his origin, he shall be deemed to have abandoned his naturalization.

The countries with which the United States has treaties of naturalization are as follows: Belgium, Denmark, Great Britain, Sweden, Norway, Haiti, Portugal, Honduras, Peru, Salvador, Uruguay, Nicaragua, Costa Rica, Brazil and Bulgaria. The United States is also a party to the Pan American Convention of 1906 concerning the status of naturalized citizens who again take up their residence in the country of their origin,⁴⁷ which has also been adhered to by Ecuador, Paraguay, Colombia, Honduras, Panama, Peru, Salvador, Costa Rica, Mexico, Guatemala, Uruguay, the Argentine Republic, Nicaragua, Brazil and Chile. This Convention is similar in substance to the provisions contained in the naturalization treaties mentioned above concerning the status of naturalized citizens who resume residence of a permanent character in the countries of their origin. The United States formerly had treaties of naturalization with the German States and Austria-Hungary, which treaties were terminated as a result of the World War. However, the United States, under provisions in the Treaties of Peace with Germany, Austria and Hungary, is entitled to the advantage of

⁴⁷ Signed at Rio de Janeiro, Aug. 13, 1906; *Foreign Relations*, 1913, p. 1352.

the provisions contained in the Treaties of Versailles, St. Germain and Trianon, under which Germany, Austria and Hungary agreed to recognize the naturalization of their former nationals under the laws of the Allied and Associated Powers.

Since the close of the World War the Government of the United States has endeavored to conclude naturalization treaties with a number of European countries, but so far has succeeded in concluding such a treaty only with Bulgaria.⁴⁸ Efforts in this direction will be continued. As the principal complaints on account of impressment into the military service of foreign countries in cases of persons naturalized in this country have been received from persons of Italian and French origin, special efforts have been made to procure naturalization treaties with Italy and France.

It is the opinion of this Department that it would not be advisable to enter into agreements of the kind proposed in the Resolution concerning naturalized citizens, since an agreement to the effect that such persons might visit their countries of origin for a period of one year without molestation under the military service laws would seem to carry an inference that they could properly be regarded as having retained their original allegiance and that they could be compelled to perform military service after a stay of more than one year in their countries of origin. This would seem contrary to the principle of the right of expatriation as declared by Congress in the Joint Resolution of July 27, 1868, and subsequently embodied in Sections 2000-2001, inclusive, of the Revised Statutes.

As to the provision in the Joint Resolution concerning persons born in the United States of foreign parentage, it may be observed that, while such persons are citizens of the United States under the provision of the Fourteenth Amendment to the Constitution, they may also be regarded as citizens of the countries of their parents' nationality under the laws thereof, thus having dual nationality. It is obvious that the United States is not in a position to deny the right of the foreign countries concerned to claim such persons as their nationals, in view of the fact that persons born abroad of American fathers may be claimed by this country as American nationals under the provision of Section 1993 of the Revised Statutes.

The Department's attention is daily called to numbers of cases in which persons born in the United States of foreign parentage are impressed into the military service of the countries of their parents' nationality. The greatest number of cases of this kind are those of persons of Italian parentage, although many cases of the same kind relate to persons of Polish, Czechoslovak, Greek, Portuguese, French, Turkish and Yugoslav parentage. It has been estimated that between three and four thousand cases of the kind mentioned are

⁴⁸ Treaty of Nov. 23, 1923; *Foreign Relations*, 1923, vol. I, p. 464.

brought to the attention of the Department each year, of which over one-half are cases of persons of Italian parentage.

It is important to observe, however, that most of the persons concerned were taken during childhood to the countries of their parents' nationality and have remained there ever since, although the Department's attention is called to numbers of cases in which persons born in the United States of foreign parentage are compelled to perform military service in foreign countries while upon temporary visits thereto, although they have maintained their residence in the United States. It appears to be cases of the latter kind that are contemplated by the Joint Resolution. It is believed that the desideratum in this matter would be the conclusion of international agreements, supplemented by such legislation as might be necessary, under which the anomalous condition of dual nationality would be definitely terminated, under certain specified conditions, when the persons concerned reach the age of majority or shortly thereafter. In this relation attention is called to Section 8 of H. R. 168, introduced by you on December 5, 1927. However, there would seem to be no objection to the conclusion, if feasible, of agreements such as those contemplated by the Joint Resolution, to be applicable to persons who still retain dual nationality.

As of possible interest in connection with the consideration of the Joint Resolution there are enclosed herewith a "Notice to Bearers of Passports," Sections III and IV of which relate to the status of naturalized American citizens; a copy of a letter of June 19 [1915], 1915, to the late Senator Henry Cabot Lodge,⁴⁹ relating to the status of persons born in the United States of alien parents and of foreign born persons naturalized in this country, and a copy of a letter of August 18, 1915, to Messrs. Hubbard and Hubbard of Wheeling, West Virginia,⁵⁰ concerning the liability for military service in Italy of Italians in this country who have obtained or intend to obtain naturalization.

I am [etc.]

FRANK B. KELLOGG

711.554/1

*The Secretary of State to the Ambassador in Belgium (Gibson)*⁵¹

No. 167

WASHINGTON, December 1, 1928.

SIR: Your attention is called to the Joint Resolution of Congress, approved by the President May 28, 1928, reading as follows:

"That the President be, and he is hereby, respectfully requested to endeavor as soon as possible to negotiate treaties with the remaining

⁴⁹ *Foreign Relations*, 1915, p. 559.

⁵⁰ Not printed.

⁵¹ The same, *mutatis mutandis*, on the same date to the chiefs of diplomatic missions in Bulgaria (No. 276), Denmark (No. 128), Great Britain (No. 1622), Norway (No. 442), Portugal (No. 958), and Sweden (No. 86).

nations with which we have no such agreement, providing that persons born in the United States of foreign parentage, and naturalized American citizens, shall not be held liable for military service or any other act of allegiance during a stay in the territory subject to the jurisdiction of any such nation while citizens of the United States of America under the laws thereof."

You are instructed to bring the above Resolution to the attention of the Belgian Government with a view to the conclusion of an appropriate convention between the United States and Belgium.

It does not seem reasonable to ask the Belgian Government to enter into an engagement concerning persons born in the United States of foreign parents and desiring to visit the countries of their parents' nationality, unless it is coupled with a reciprocal engagement by this Government. You are therefore instructed to propose to the Belgian Government agreement upon an article reading as follows:

"A person born in the territory of one party of parents who are nationals of the other party, and having the nationality of both parties under their laws, shall not, if he has his habitual residence, that is, the place of his general abode, in the territory of the state of his birth, be held liable for military service or any other act of allegiance during a temporary stay in the territory of the other party."

If the Belgian Government should consider that the term "temporary stay" is too vague and requires definition, you are authorized to add the following proviso to the proposed article:

"Provided, That, if such stay is protracted beyond the period of one year, it may be presumed to be permanent, in the absence of sufficient evidence to the contrary."

In view of the provisions of the existing Naturalization Treaty between the United States and Belgium,⁵² it is obviously unnecessary to enter into a new agreement concerning natives of either country who, after acquiring naturalization in the other, desire to visit their native country.

Pending the conclusion of a treaty to carry out the provision of the Joint Resolution of Congress, you are instructed to endeavor to obtain an informal agreement with the Belgian Government in accordance with the Joint Resolution, which would be applicable to persons born in the United States of Belgian parents, in order that such persons, while maintaining their residence in the United States, may be able to visit Belgium temporarily without molestation.

You are further instructed to inquire of the Belgian Government whether it would be willing to consider the adoption of an agreement for the termination of one nationality or the other in cases of dual nationality arising at birth, upon attainment by the persons

⁵² Treaty of Nov. 16, 1868; Malloy, *Treaties, 1776-1909*, vol. 1, p. 80.

concerned of a prescribed age, and if so, what suggestions in that direction it sees fit to propose. It is expected that this question will come before Congress during the coming session in connection with a proposed amendment of the nationality laws of the United States. It has been suggested that the nationality, after attainment of majority, of a person born with dual nationality should be determined by the domicile of such person at the time when he reaches majority or upon the termination of the period of one year thereafter, and a provision based upon this theory is found in Section 8 of a bill introduced into the House of Representatives, December 5, 1927. (H. R. 168, 70th Cong. 1st Sess.) It seems to the Department desirable to consider the whole problem of dual nationality in connection with the proposed agreement, and suggestions by the Belgian Government concerning its solution will be appreciated. It is not deemed desirable, however, to delay the conclusion of a treaty to carry out the provision of the Joint Resolution of Congress until an agreement can be reached concerning the termination of dual nationality.

I am [etc.]

For the Secretary of State:

NELSON TRUSLER JOHNSON

711.514/Sa

*The Secretary of State to the Ambassador in France (Herrick)*⁵³

[No.] 2993

WASHINGTON, December 1, 1928.

SIR: [Here follow four paragraphs, the same, *mutatis mutandis*, as the first four paragraphs of instruction No. 167 to the Ambassador in Belgium, printed *supra*.]

With reference to this matter your attention is called to the draft of a proposed Naturalization Treaty, which accompanied the Department's instruction No. 649 of May 11, 1923,⁵⁴ and was the subject of the Department's instruction No. 1613 of July 8, 1925,⁵⁴ and the Embassy's despatch No. 6218 of April 1, 1926,⁵⁵ and other correspondence between the Embassy and the Department. If the French Government is willing to conclude a Naturalization Treaty it might be desirable to include therein the proposed article concerning dual nationality existing in cases of persons born in either country of parents having the nationality of the other. In such case it would, of course, be necessary to make an appropriate change in the pre-

⁵³ Similar instructions on the same date to the chiefs of missions in Greece (No. 210), Italy (No. 1102), Poland (No. 873), Spain (No. 491), and Yugoslavia (No. 165).

⁵⁴ Not printed.

⁵⁵ *Foreign Relations*, 1926, vol. II, p. 108.

of the proposed Naturalization Treaty. It might be amended
read as follows:

“The Government of the United States of America and the Government of the Republic of France, being desirous of regulating the nationality of those persons who have emigrated or who may emigrate from the United States of America to France, and from France to the United States of America, and the liability for military service and other acts of allegiance of such persons and all persons born in the territory of either state of persons having the nationality of the other, have resolved to conclude a treaty on this subject and for that purpose have appointed their plenipotentiaries, etc.”

[Here follow two paragraphs, the same, *mutatis mutandis*, as the last two paragraphs of instruction No. 167 to the Ambassador in Belgium, printed *supra*.]

I am [etc.]

For the Secretary of State:

NELSON TRUSLER JOHNSON

711.60 14/1

*The Secretary of State to the Chargé in Estonia (Sussdorff)*⁵⁶

No. 583

WASHINGTON, December 1, 1928.

SIR: Your attention is called to the Joint Resolution of Congress, approved by the President May 28, 1928, reading as follows:

“That the President be, and he is hereby, respectfully requested to endeavor as soon as possible to negotiate treaties with the remaining nations with which we have no such agreement, providing that persons born in the United States of foreign parentage, and naturalized American citizens, shall not be held liable for military service or any other act of allegiance during a stay in the territory subject to the jurisdiction of any such nation while citizens of the United States of America under the laws thereof.”

You are instructed to bring the above Resolution to the attention of the Estonian Government with a view to the conclusion of an appropriate convention between the United States and Estonia.

It will be observed that the Joint Resolution relates to two classes of persons. First, those born in foreign countries and naturalized as citizens of the United States, and second, those born in the United States of alien parents. While this Government does not admit that a person of foreign origin who has lawfully acquired naturalization as a citizen of the United States can properly be regarded as still owing allegiance to the country of which he was formerly a national, it is obliged to admit the existence of dual nationality in

⁵⁶The same, *mutatis mutandis*, on the same date to the chiefs of missions in Finland (No. 99), Latvia (No. 582), Lithuania (No. 584), Netherlands (No. 612), and Rumania (No. 11).

the cases of persons who are born in the United States of alien parents and who, although they are born citizens of the United States under the provision of the Fourteenth Amendment to the Constitution, are also regarded as nationals of the countries of which their parents are nationals under the laws thereof. Nevertheless, it seems only reasonable that, when persons of the class last mentioned have a permanent residence in one of the two countries concerned, they should be able to visit the other temporarily without being arrested and held for military or other national services.

I enclose herewith, for submission to the Estonian Government a draft treaty concerning naturalization and military service, designed to carry out the provisions of the Joint Resolution. As you will observe, the first three articles of the treaty relate to the status of naturalized citizens and closely resemble the first three articles of the Naturalization Treaty of 1924 between the United States and Bulgaria.⁵⁷ The fourth article, as you will observe, relates to liability for military or other national services in cases of persons born in either country of parents having the nationality of the other.

In presenting the draft treaty to the Estonian Government you will call attention to the fact that the Government of the United States endeavors consistently to observe two principles with regard to the status and right to protection in foreign countries of persons of foreign origin who have obtained naturalization as citizens of the United States under the laws of this country. The first is that such persons, having left their countries of origin and established themselves permanently in this country, and having solemnly foresworn allegiance to their former sovereigns while at the same time taking an oath of permanent allegiance to the United States, should be regarded as owing allegiance to the United States only. The second is that this Government will not extend its protection abroad to a person of foreign origin who has obtained naturalization as a citizen of this country fraudulently or, although his naturalization may have been obtained in good faith, has abandoned his ties with the United States and established himself permanently in the country of his former nationality. In this relation you will direct especial attention to the provisions of the second paragraph of Section 15 of the Naturalization Act of June 29, 1906,⁵⁸ providing for the cancellation of the naturalization, as void *ab initio*, of naturalized citizens who establish a residence of a permanent character abroad within five years after naturalization, and the provision of the second paragraph of Section 2 of the Expatriation Act of March 2, 1907,⁵⁹ under which

⁵⁷ Treaty of Nov. 23, 1923, proclaimed May 6, 1924; *Foreign Relations*, 1923, vol. 1, p. 464.

⁵⁸ 34 Stat. 596.

⁵⁹ 34 Stat. 1228.

the presumption of loss of American citizenship arises against a naturalized citizen who has resided for two years in his native land. Under the provisions of the statute first mentioned, this Department has forwarded to the Attorney General in recent years hundreds of reports received from consular officers concerning naturalized American citizens of foreign origin who established residences of permanent nature in a foreign country within five years after naturalization; and also the Department has refused to grant American passports or consular registration certificates to large numbers of naturalized citizens who have brought upon themselves the presumption of expatriation under the provisions of the Act of March 2, 1907, because of their protracted residence in their native land. These statutory provisions and the action taken under them show clearly that this Government, while it desires to extend full protection to naturalized citizens who appear to have obtained their naturalization in good faith and to have maintained their ties with the United States, has no desire to extend its protection to those who fail to meet these conditions. It is believed that the proposed naturalization treaty, while it is, of course, intended to guarantee due protection to naturalized American citizens of Estonian origin who wish to visit their native land for legitimate objects, makes due allowances for the just demands of Estonia, and thus tends to foster friendly and mutually beneficial intercourse between the two countries.

Especial attention is called to the provision of Article 2 of the proposed treaty to the effect that nationals of either country naturalized in the territory of the other shall not, upon returning to the country of origin, be punished "for failure to respond to calls for military service accruing after bona fide residence was acquired in the territory of the country whose nationality was obtained by naturalization". It seems obvious that unless a provision to this effect is included in the treaty it will be of little or no value.

With reference to article four of the draft it will be observed that it does not seem reasonable to ask the Estonian Government to enter into an engagement concerning persons born in the United States of foreign parents and desiring to visit the countries of their parents' nationality, unless it is coupled with a reciprocal engagement by this Government. You are therefore instructed to propose to the Estonian Government agreement upon an article reading as follows:

"A person born in the territory of one party of parents who are nationals of the other party, and having the nationality of both parties under their laws, shall not, if he has his habitual residence, that is, the place of his general abode, in the territory of the state of his birth, be held liable for military service or any other act of allegiance during a temporary stay in the territory of the other party."

If the Estonian Government should consider that the term "temporary stay" is too vague and requires definition, you are authorized to add the following proviso to the proposed article:

"Provided, That, if such stay is protracted beyond the period of one year, it may be presumed to be permanent, in the absence of sufficient evidence to the contrary."

[Here follow two paragraphs, the same, *mutatis mutandis*, as the last two paragraphs of instruction No. 167 to the Ambassador in Belgium, printed on page 497.]

For the Secretary of State:

NELSON TRUSLER JOHNSON

[Enclosure]

*Draft Treaty of Naturalization Between the United States and Estonia*⁶⁰

The Government of the United States of America and the Government of Estonia, being desirous of regulating the nationality of those persons who have emigrated or who may emigrate from the United States of America to Estonia, and from Estonia to the United States of America, and the liability for military service and other acts of allegiance of such persons and all persons born in the territory of either state of persons having the nationality of the other, have resolved to conclude a treaty on this subject and for that purpose have appointed their plenipotentiaries, that is to say:

The President of the United States of America:

and the Government of the Republic of Estonia:

Who, having communicated to each other their full powers, found to be in good and due form, have agreed upon the following Articles:

ARTICLE I

Nationals of the United States who have been or shall be naturalized in Estonian territory, shall be held by the United States to have lost their former nationality and to be nationals of Estonia.

Reciprocally, nationals of Estonia who have been or shall be naturalized in territory of the United States shall be held by Estonia to have lost their original nationality and to be nationals of the United States.

The foregoing provisions of this Article are subject to any law of either country providing that its nationals do not lose their nationality by becoming naturalized in another country in time of war.

⁶⁰The same draft, *mutatis mutandis*, for treaties with Finland, Latvia, Lithuania, the Netherlands, and Rumania.

The word "national", as used in this convention, means a person owing permanent allegiance to, or having the nationality of, the United States or Estonia, respectively, under the laws thereof.

The word "naturalized" refers only to the naturalization of persons of full age, upon their own applications, and to the naturalization of minors through the naturalization of their parents. It does not apply to the acquisition of nationality by a woman through marriage.

ARTICLE II

Nationals of either country, who have or shall become naturalized in the territory of the other, as contemplated in Article I, shall not, upon returning to the country of former nationality, be punished for the original act of emigration, or for failure to respond to calls for military service accruing after bona fide residence was acquired in the territory of the country whose nationality was obtained by naturalization.

ARTICLE III

If a national of either country, who comes within the purview of Article I, shall renew his residence in his country of origin without the intent to return to that in which he was naturalized, he shall be held to have renounced his naturalization.

The intent not to return may be held to exist when a person naturalized in one country shall have resided more than two years in the other; but this presumption may be overcome by evidence to the contrary.

ARTICLE IV

A person born in the territory of one party of parents who are nationals of the other party, and having the nationality of both parties under their laws, shall not, if he has his habitual residence, that is, the place of his general abode, in the territory of the state of his birth, be held liable for military service or any other act of allegiance during a temporary stay in the territory of the other party.

ARTICLE V

The present Treaty shall go into effect immediately upon the exchange of ratifications, and shall continue in force for ten years. If neither party shall have given to the other six months previous notice of its intention then to terminate the Treaty, it shall further remain in force until the end of twelve months after either of the contracting parties shall have given notice to the other of such intention.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Treaty and have hereunto affixed their seals.

Done in duplicate at Tallinn, this day of

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SECOND INTERNATIONAL CONFERENCE ON EMIGRATION AND IMMIGRATION, HELD AT HABANA, MARCH 31 TO APRIL 17, 1928⁶¹

555.H2/126

The Secretary of State to the American Delegation

WASHINGTON, *March 23, 1928.*

SIRS: The International Conference on Emigration and Immigration to which you have been designated as representatives of this Government is the second Conference of this type to which the United States has sent delegates, the first having been held in Rome in 1924 upon the invitation of the Italian Government.⁶² The present Conference has been called by the Cuban Government in pursuance of a resolution adopted at the Rome Conference for the convening of the second International Conference on Emigration and Immigration to be held in an immigration country.

The purpose of the Rome Conference as explained by the Italian Government in issuing its invitation was to examine emigration and immigration problems of a technical nature with a view to facilitating a coordination of action between nations in dealing with them. The Cuban Government in asking that this Government send delegates to the forthcoming Conference at Habana stated that it was hoped to reach final conclusions on certain of the questions considered at the Rome Conference. The nature of the questions to be discussed at Habana is indicated in some detail in the agenda of the Conference, copies of which have been made available to you.⁶³

The attitude of this Government regarding immigration is a matter of historical record and was accurately and forcefully expressed by the Honorable Henry P. Fletcher at the Pan American Conference of 1928⁶⁴ in the following terms:

"The delegation of the United States desires in connection with this resolution (i. e. regarding international aspects of emigration and immigration) to state that the Government of the United States considers that control of immigration is a matter of purely domestic

⁶¹ For proceedings of the Conference, see Segunda Conferencia Internacional de Emigracion e Inmigracion, *Diario Oficial*, 2 vols. (Habana, 1928).

⁶² See *Foreign Relations*, 1923, vol. I, pp. 115 ff.

⁶³ For English text, see *Diario Oficial*, first vol., p. 43.

⁶⁴ See pp. 527 ff.

concern, representing the exercise of a sovereign right, and that, as far as the United States of America is concerned, the authority of its Congress in immigration matters is exclusive.”

You will make clear at the Conference this Government's position with respect to immigration as above indicated, and you will take no action inconsistent with the attitude and prerogatives of the Congress of the United States in this connection or in any way committing the Government of the United States. The performance of this duty will be the paramount consideration of the delegation and will at all times determine the attitude to be taken by the delegation in the proceedings of the Conference.

The position of the United States on questions of immigration is well known to the nations participating in the Conference, and it is believed that a similar attitude will be adopted by many of them, notably by the Latin-American countries whose immigration problems are similar to our own. The reaffirmation of this principle that immigration is a matter of purely domestic concern, not only by the United States but by other countries, will obviously operate to the advantage of this Government, and will also afford the United States the opportunity to cooperate with Latin-American countries in a helpful manner and thus to continue the work of the Pan American Conference.

While your attitude will be governed by the above consideration, it is, however, desired that you take a helpful and appropriate part in the discussions of the Conference and of its Committees on the various technical questions before the Conference which are or have been of particular interest to the United States. You may inform your colleagues in the Conference of the forms in which these questions have presented themselves to the United States, and the methods of this Government in dealing with them; and you may describe the aims and policies of this Government regarding them, and the legislative and administrative machinery which it has established to carry out those aims and policies. Likewise you should be careful to note any information furnished by your colleagues in the Conference which may be of value to this Government, and any suggestions which may appear to merit its consideration, for incorporation in your report.

It is believed that participation on this basis will enable the United States to contribute to the work of the Conference within the limitations imposed by its standing policy on immigration, especially as evidenced by the Immigration Act of 1924⁶⁵ and other legislation. You should, however, make clear to the Conference from the beginning that this represents the full extent to which the United States

⁶⁵ 43 Stat. 153.

can take part in any discussion between nations on the problems of emigration and immigration.

It is thus apparent that your efforts in the Conference will be confined to discussion of the technical matters presented, to observing the trend of the Conference, and to safeguarding and reaffirming the position of the United States on immigration on such occasions as may be appropriate. It is equally clear that you should refrain from voting on any of the resolutions presented to the Conference for approval without the specific authorization of this Government. While in the vast majority of cases it will be obvious that a vote by this Government would be inappropriate, nevertheless it is possible that certain resolutions may be put forward on which it may seem desirable to put this Government on record: such as, for example, a proposal for the convening of a Third International Conference on Emigration and Immigration. In such cases the delegation should ask this Government for instructions, by cable through the Department of State.

For your further information and guidance there are attached:⁶⁶

(1). A collection of documents illustrative of the historical and diplomatic background of the Conference and of American immigration policy in general;

(2). An annotated copy of the agenda of the Habana Conference indicating the special considerations attaching to the discussion of the various questions by the American delegates.

I need not remind you of the importance which this Government attaches to the manner in which you carry out the mission with which you are now entrusted, involving as it does the authoritative and effective presentation in an international gathering of one of the most important of the national policies of the United States. It is my confident hope that you will be able to carry this mission to a successful conclusion.

I am [etc.]

FRANK B. KELLOGG

555.H2/155

The Cuban Chargé (Altunaga) to the Secretary of State

WASHINGTON, August 24, 1928.

EXCELLENCY: I have the honour to send Your Excellency herewith three copies of the Final Act of the Second International Conference on Immigration and Emigration held in Havana, March-April, 1928,⁶⁷ one of the copies duly certified by the Under Secretary of State of Cuba.

⁶⁶ Enclosures not printed.

⁶⁷ For text, see *Acta Final de la Segunda Conferencia Internacional de Emigración e Inmigración, la Habana, 31 de Marzo-17 de Abril de 1928* (Habana, 1928).

I beg to transmit these documents to Your Excellency with the request that Your Government, if desirous of so doing, give adherence to the resolution approved by the Conference regarding the desire to hold the next Conference on Immigration and Emigration in Madrid, the organization of which will be in charge of the Board of Directors of the Conference, according to paragraphs 1 and 2 of Resolution number 1 taken at the Plenary session in April 17th (pages 62-63 French text of the Final Act).

I avail myself [etc.]

RAFAU RODRIGUEZ ALTUNAGA

555.H2/157

The American Delegation to the Secretary of State

WASHINGTON, August 25, 1928.

SIR: The undersigned appointed by the President as Delegates of the United States of America to the Second International Conference on Emigration and Immigration held at Habana from March 31 to April 17, 1928, inclusive, have the honor to submit the following report:

At the closing session of the First International Conference on Emigration and Immigration, held in Rome in May, 1924, a resolution was adopted calling for a Second International Conference on Emigration and Immigration, to be held in an immigration country and charging the Committee of Control of the Rome Conference with the work of preparation for such a conference, to which it should present a general report on the effect given by different governments to the resolutions voted by the Conference of Rome. The Committee of Control, which consisted of the President and the eight Vice Presidents of the Rome Conference, was to sit at Rome under the Presidency of Signor De Michelis, President of the Rome Conference, and Italian Commissioner General of Emigration.

On July 9, 1927, the Committee of Control adopted the following resolution regarding the holding of the Second International Conference on Emigration and Immigration:

"The Committee entrusted with the preliminary work of the IIInd international emigration and immigration Conference, in accordance with the resolution of the Rome Conference,

"Whereas its resolution of 10th of December appointed the city of Havana to be the see for the IIInd Conference,

"Having considered the message of the Cuban Government suggesting that the Conference convene during the month of March 1928,

"Having read the list of questions proposed by the several Governments, to be included in the agenda of the Havana Conference:

"1) Resolves to fix the agenda for the IIInd international emigration and immigration Conference as it appears in annex A.

"2) Entrusts its President to request the Cuban Government to kindly send invitations to the Governments interested in the IInd international emigration and immigration Conference and to fix the opening date of the same.

"3) Also entrusts its President with the mission to kindly ask the Cuban Government to extend the courtesy of an invitation to the great international Organizations so as to enable them to be represented in the Conference of Havana, in a consultive character."

On July 18, 1927, the Cuban Embassy in Washington addressed a note to the Department,⁶⁸ inviting this Government to participate in the Second International Conference on Emigration and Immigration, which was to open in Habana, March 31, 1928, and shortly afterward it supplied the Department with the agenda of the Conference (see annex).⁶⁹

Several conferences were held between the appropriate officers of the Department of State, the Department of Labor and the United States Public Health Service, at which the questions of policy involved in American participation in such a conference were thoroughly discussed and weighed. It was the feeling of the Conference that participation was advisable, and on January 12, 1928, the Secretary of State addressed a letter to the President recommending American participation in the following terms:

"The Cuban Government, through its Embassy in Washington, extended an invitation on July 18, 1927, to this Government to participate in the Second International Emigration and Immigration Conference, which will be held at Habana commencing March 31, 1928. On August 20, 1927, the Secretary of State sent a note to the Cuban Embassy⁶⁸ requesting that the thanks of the United States Government for the invitation be conveyed to the Cuban Government and that the Cuban Government be informed that this Government would be glad to consider the invitation when it had had an opportunity to examine the agenda of the conference.

"After copies of the agenda had been received, communications were addressed to the Secretaries of the Treasury and Labor on December 17, 1927,⁶⁸ apprising them of the receipt of the invitation under discussion and transmitting copies of the agenda with the suggestion that a conference be held between representatives of the Department of State, the Department of Labor, and the United States Public Health Service for the purpose of discussing the question of participation in the conference to be held in Habana.

"On December 29 representatives of the three Departments met at the State Department and after due deliberation reached the conclusion that it would be advisable for the United States to send a delegation to the Habana conference because of the following considerations: First, the United States appears to be in some degree committed to such participation not only by reason of the fact that it was formally represented in the previous conference on the same

⁶⁸ Not printed.

⁶⁹ The annexes to this report are not printed.

subject held in Rome in 1924, but more especially in view of the fact that the chairman of the American delegation at that conference cast his vote in favor of the convening of a second conference, i. e., that to be held at Habana in March. Second, the conference is to be held in a Latin American country, and will be largely attended by delegates from the Latin American nations whose immigration problems are similar to those of this country, as was evidenced by their attitude at the recent meeting of the Interparliamentary Commercial Conference held at Rio de Janeiro in September of last year.

"While the opinion of the conferees that the United States should accept the invitation was based chiefly on the considerations set forth in the foregoing paragraph, they did not lose sight of the advantage to this country in having the traditional position of the United States, that immigration is strictly a domestic matter, reaffirmed at this conference. Should delegates be appointed, they will accordingly be instructed to make clear this Government's position on immigration and to take no action inconsistent with the attitude and prerogatives of the Congress of the United States in this connection.

"This matter has been submitted to the Director of the Bureau of the Budget who advises that it is not in conflict with the President's financial program.

"I believe, therefore, that attendance at this conference will be in the public interest, and have the honor to recommend that, as an act of international courtesy and as a means of reaffirming the historic policy of this country on immigration and of cooperating with American countries with similar immigration problems, the Congress be requested to appropriate funds to cover the expense of sending a delegation to the Second International Emigration and Immigration Conference. It is not believed an amount in excess of \$5,000 will be necessary for this purpose.

"It is my further recommendation that the delegation from the United States consist of a representative of the Department of Labor, a representative of the United States Public Health Service, a representative of this Department, and a consular officer who has had extensive experience in immigration matters."

On January 13 the President sent the Secretary of State's letter to Congress with a message requesting legislation appropriating \$5,000 for the expenses of an American delegation to the Habana Conference. An appropriate resolution was subsequently introduced in the House of Representatives and was favorably reported on by the House Committee on Foreign Affairs. However, when it appeared that the volume of business for Congress was so great as to make it unlikely that definite action could be taken on the resolution before the opening of the Conference on March 31, 1928, the Secretary of State, deeming that participation in the Habana Conference was sufficiently important from the viewpoint of American foreign policy to justify making other provision for the expenses of the participation in the event that Congress should fail to make the appropriation which had been requested on March 20, informed the Cuban Embassy of this Govern-

ment's acceptance of its invitation of July 18, 1927, in the following terms:

"I have the honor to refer to your note of July 18, 1927, inviting this Government to participate in the Second International Conference on Emigration and Immigration which will open in Habana on March 31.

"I take pleasure in informing you that the United States will be glad to send delegates although you will readily understand that the immigration policy of this country as established by Acts of the Congress will obviously impose certain restrictions upon the American delegates. However, with due regard to such limitations this Government will be happy to attend the Habana Conference and to participate so far as practicable in a discussion of the technical matters presented.

"The names of the American delegates will be communicated to you in the course of the next few days. In the meantime I trust that you will notify your Government of this Government's acceptance of its courteous invitation."

On March 22, the Secretary of State addressed a letter to the President⁷¹ recommending the appointment of delegates and submitting a draft instruction for the President's approval.⁷² These instructions emphasized the importance of upholding the American view that control of immigration is purely a domestic question and that the authority of Congress in immigration matters is exclusive. The instructions further stated that the delegates attending the Conference at Habana would be expected to reaffirm the policy of this Government that immigration is a matter of purely domestic concern in the manner in which it was stated at the Sixth Pan American Conference in Habana; to take a helpful and appropriate part in the discussions of various technical questions before the Conference with a view to informing the Conference of the forms in which these questions have presented themselves to the United States, the methods of this Government in dealing with them, the aims and policies of the Government regarding them, and the legislative and administrative machinery which it has established to carry them out; to observe the trend of the Conference and to take no action committing this Government and to refrain from voting on any of the resolutions presented for approval without the specific authorization of this Department.

On March 24 the President's approval having been signified, the American delegates to the Second International Conference on Emigration and Immigration were announced as follows, and appropriate travel instructions were issued:

The Honorable W. W. Husband, Assistant Secretary of Labor,
Chairman;

⁷¹ Not printed.

⁷² For instructions as approved, see p. 505.

Mr. Norval P. Nichols, Commissioner of Immigration at Porto Rico;
Surgeon John W. Kerr, United States Public Health Service;
Surgeon John D. Long, United States Public Health Service;
Mr. Leo J. Keena, American Consul General at Habana;
Mr. Henry Carter, Department of State.

On March 30 the American delegates assembled in Habana and an office was established in the Sevilla-Biltmore Hotel with a staff consisting of two stenographers, one Spanish-English interpreter and one French-English interpreter. Office furniture and typewriters were rented in Habana and stationery and office supplies were provided by the American Embassy. Mr. Carter was appointed Secretary of the Delegation and Mr. Shields, Special Disbursing Officer in the Embassy, acted as Disbursing Officer, and in addition, took charge of the code work of the Delegation.

On the afternoon of March 30 an informal meeting of the chief delegates of the participating nations was held at the University of Habana where the Conference was to sit, at which a slate of officers of the Conference and of the Chairmen and Vice Chairmen of the Commissions of the Conference was drawn up for presentation to the opening session of the Conference. Mr. Husband was named for one of the ten Vice Presidencies, and the position of Chairman of the Third Section (that dealing with measures designed to adapt emigration to the labor necessities of immigration countries and with methods of international cooperation between the emigration and immigration services) was offered to him. Mr. Husband accepted the post of Vice President, thus becoming a member of the Presidential Committee of Control which functioned as a steering committee for the Conference (see the standing orders of the Conference,⁷³ annex) but felt that the nature of his instructions made it inappropriate for him to act as Chairman of the Third Commission and accordingly declined, suggesting that Señor Aguero of the Cuban Delegation be named in his place.

The Conference proper opened at the University of Habana on the morning of March 31 when the inaugural plenary session was held. President Machado of Cuba presided at the opening and a speech of welcome was made by Dr. Rafael Martinez Ortiz, Cuban Secretary of State, to which a reply was made by Señor Gutierrez de Aguera, chief delegate of Spain and Spanish Ambassador to Cuba, following which the meeting adjourned until afternoon.

The first plenary session was held on the afternoon of March 31 under the temporary presidency of Dr. Carlos Armenteros of the Cuban Delegation. A letter from Signor de Michelis of the Rome Committee was read and a speech was made regarding the purposes

⁷³ See art. 8 under "Reglamento de la Segunda Conferencia", *Diario Oficial*, first vol., p. 34.

and labors of that Committee by Señor Brebbia of Argentina. The Conference then proceeded to the election of officers and Dr. Sanchez de Fuentes of Cuba was nominated for President of the Conference by Signor Vivaldi of Italy, seconded by Mr. Aoki of Japan, and elected by acclamation, following which he took the chair. After deciding that both the plenary sessions and the committee meetings should be opened to the public, the Conference then elected President Machado as honorary President of the Conference upon the motion of Mr. Rais of France, seconded by Señor Perez Alfonseca of Santo Domingo.

The slate of the other officers of the Conference and its recommendations, as drawn up in the informal meeting of March 30, was then approved, and Signor Vivaldi of Italy was elected Chairman of the Drafting Committee. The organization of the Conference as finally constituted was as follows:

President:

Dr. Fernando Sánchez de Fuentes (Cuba).

Vice Presidents:

Mr. Arata Aoki (Japan).

Mr. Jan Gawronski (Poland).

Mr. Francisco Bernis (Spain).

Mr. Guglielmo de Vivaldi (Italy).

Mr. Luis Rais (France).

Mr. W. W. Husband (United States).

Mr. Amadeo E. Grandi (Argentina).

Mr. Pedro Erasmo Callorda (Uruguay).

Mr. Carlos Trejo y Lerdo de Tejada (Mexico).

(A vice presidency was reserved for Portugal, but remained vacant as Portugal had no representative present at the Conference).

Chairmen and Vice Chairmen of the Commissions:

FIRST COMMISSION

President:

Doctor Manuel Bianchi (Chile).

Vice Presidents:

Mr. Liang Chi-Cho (China).

Doctor Henry S. Brandt (Netherlands).

SECOND COMMISSION

President:

Mr. Antonio Sum (Czechoslovakia).

Vice Presidents:

Mr. Ramsés Chaffey (Egypt).

Mr. Furcy Pichardo (Dominican Republic).

THIRD COMMISSION

President:

Doctor Arístides de Agüero (Cuba).

Vice Presidents:

Doctor Oscar Barrenechea (Peru).

Doctor Fernando Dennis (Haiti).

FOURTH COMMISSION

President:

Mr. Marc Peter (Switzerland).

Vice Presidents:

Mr. Heinrich Montel (Austria).

Mr. Ricardo A. Morales (Panama).

FIFTH COMMISSION

President:

Prince Sturdza (Rumania).

Vice Presidents:

Mr. Reider Hildal (Norway).

Mr. Victor Zevallos (Ecuador).

Following discussion of minor points of organization and procedure, the plenary session adjourned, after arranging for the hours of meeting of the various Commissions, and after charging the Presidential Committee with the responsibility of settling upon a closing date for the Conference (the Committee subsequently announced April 17th as the closing date).

The following two weeks were devoted exclusively to commission meetings and it was not until April 16 that the Conference again met in plenary session. The nature of the work of the committees is indicated by the subjects of discussion listed in the agenda and by the resolutions adopted by the Conference at the final plenary sessions⁷⁴ (see annex). The American delegates were assigned to the five commissions as follows:

FIRST COMMISSION

Transport and protection of the emigrants.

Hygiene and sanitary services.

Doctor Kerr and Doctor Long.

SECOND COMMISSION

Assistance to the emigrated—Cooperation, insurance, systems of mutual insurance.

Mr. Nichols and Doctor Long.

THIRD COMMISSION

Adoption of measures in order to adapt emigration to the labor necessities of immigration countries. International cooperation between the emigration and immigration services.

Mr. Husband and Mr. Keena.

FOURTH COMMISSION

General principles of immigration treaties.

Miscellaneous matters.

Mr. Keena and Mr. Carter.

⁷⁴ See *Diario Oficial*, tomo II, pp. 332 ff.

FIFTH COMMISSION

Examination of the resolutions of the Rome Conference and sequence to be given them.

Mr. Carter and Mr. Nichols.

In view of the nature of their instructions, the American delegates took a passive part in the debates of the Conference, confining themselves to declarations of American policy and discussion of technical methods employed by the United States, and abstained from voting, both in the commission meetings and in the plenary sessions. However, on certain occasions they felt called upon to express their views and the following brief summary of those occasions may be noted:

1. In the first meeting of the Fifth Commission on April 3 the Chairman, Prince Sturdza of Rumania, outlined the work of the Commission as follows:

(A) To prepare and report upon the effect given by the different Governments to the resolutions adopted at the Rome Conference; (B) to prepare a report upon the possibility of giving further effect to the resolutions of the Rome Conference and (C) to consider how the work of the Rome Conference might be carried on after the Habana Conference, by further international conferences or otherwise. The delegate of the Dominican Republic was then appointed *rapporteur* of the Commission and the Chairman asked that the various delegations submit appropriate reports for use in the preparation of the two reports called for, and announced that consideration of the third part of the program would be deferred to the final sessions of the Commission. (This third topic was subsequently handled almost entirely in the Fourth Commission).

Following the adjournment of the meeting, Mr. Carter addressed to the *rapporteur* of the Fifth Commission the following letter, stating that the United States would not submit any report upon the effect given by the different Governments to the resolutions voted on by the Rome Conference:

"My Government desires me to state that it does not feel it can appropriately submit to the Conference a formal report of the sort contemplated in the resolution adopted at the Rome Conference with regard to the effect given by the different governments to the resolutions voted by that Conference.

"As you are aware, the fundamental position of the United States is that control of immigration is a matter of purely domestic concern, representing the exercise of a sovereign right, and that, as far as the United States of America is concerned, the authority of its Congress in immigration matters is exclusive.

"While it is assumed that the Rome resolution did not contemplate any action inconsistent with that position, nevertheless, to avoid all possibility of a misunderstanding on the subject my Government will refrain from submitting a report to this section of the Conference

regarding the effect given the resolutions voted on by the Conference of Rome.

"I would, however, observe that the American delegates in the other sections of the Conference will be glad to furnish information regarding the present status of legislative and administrative measures in force in the United States dealing with the problems of immigration, and to cooperate in the labors of the Conference within the limits and restrictions obviously imposed upon their action by the clearly established policy and position of my Government as regards immigration matters.

"I am confident that you will appreciate the attitude of my Government in this matter, and I request that this letter be made a part of the report which you intend to submit to the Fifth Section of the Conference."

At the same time he addressed the following letter to the Chairman of the Fifth Commission, enclosing a copy of his letter to the *rapporteur*, and stating that the United States would make no report regarding the possibility of giving further effect to the resolutions voted at the Rome Conference:

"I have the honor to transmit herewith copy of a letter which I have addressed to the *Rapporteur* of the 5th Section of the Conference, in which I state that my Government does not feel that it can appropriately submit to the Conference a formal report of the sort contemplated in the resolutions adopted at the Rome Conference with regard to the effect given by the different governments to the resolutions voted by that Conference.

"The Considerations advanced in that letter apply equally to the report which you requested be made you as to the possibility of giving further effect to the resolutions adopted at the Rome Conference.

"I trust that you will appreciate the position of my Government in refraining from making to you the desired report, and I would request that you cause this letter to be incorporated in the report which you propose to submit to the 5th Section of the Conference."

These letters were brought to the attention of the Fifth Commission at its next meeting on April 7 by its Chairman, Prince Sturdza, who commented briefly on them and they were also communicated to the Press for publication on the same day.

2. Just before the adjournment of the second and final meeting of the First Commission on April 9, Dr. Long made the following statement regarding the position of the American Delegation:

"The Delegate of the United States declares that he wishes to make it of record that the Delegation of the United States has been highly pleased to attend the debates of the Committee. He wishes it to be made of record also that the Delegation of the United States did not vote either for or against any of the motions nor took any part in the discussions that have taken place, all because the Government of the United States understands that immigration questions come within the province of the Congress of the United States and that if any other line of conduct had been taken, a

limit might have been put upon that exclusive authority held by the Congress of the United States in the matter."

This statement was followed by one from the Argentina Delegate, Señor Brebbia, who said:

"I might have saved the Committee the trouble of hearing me again ask for the floor if after hearing the Delegate of the United States I did not fear that silence of the Argentine Delegation might be construed to mean something that is in opposition to the fundamental points set forth by my North American colleagues. It is hardly necessary to say that all of us who are working together here do not propose to compromise in any way the sovereignty of the countries we represent, their laws or their regulations. This Conference is not a gathering of diplomats or plenipotentiaries empowered to draw up conventions or amend them. It is simply a meeting of technicians, which amounts to saying, men of business, who are thoroughly familiar with immigration problems and who have met in assembly to contribute, each one within his sphere, the lessons from his experience so as to harmonize as far as possible the conflicting interests of the emigrating and immigrating countries, all inspired with the wish of being useful. It is necessary that this be made clear once for all, so that there be no mistaken interpretation put upon the more or less formal agreement that may be intended by the vote of any one Delegation one way or the other when it was required to pass upon a topic under consideration."

3. During the discussions of the Second Session of the Second Commission on April 9 the following proposal was introduced by the Cuban Delegate:

"The Conference, in view of the undoubted advantages to be gained by the immigrant by the protection of his patrimony and from the assistance of institutions for the purpose of such protection, expresses the desire that measures be taken to create adequate institutions to this end."

As this proposal pointed to the establishment of cooperative banks in immigration countries, Dr. Long, when the views of the United States were asked by the Chairman, stated that the American Delegation would prefer not to enter upon a discussion of this subject.

4. At the third meeting of the Second Commission on April 11, Dr. Long, in discussing measures of medical assistance for immigrants, said:

"In so far as the United States is concerned, I have to say that before entering the country, if the immigrant contracts a disease on board, he is given attention at the expense of the steamship companies in one of the many well equipped establishments that are maintained in the principal ports such as Boston, New York, San Francisco and others. When the immigrant is already in the country he may receive medical attention in any hospital, as any citizen would, regardless as to whether he is a native or a foreigner. But when the case is one of a chronic disease, and the patient has become a public charge, then it is ascertained whether he is a citizen or a foreigner, but in the lat-

ter case, he is given the same care as if he were a citizen, and if he has not resided in the country the time provided by our law, then he is sent back to the country whence he came."

A little later Dr. Long reminded the Commission that at the Fifth Pan American Conference, held at Santiago de Chile in 1923,⁷⁵ a resolution was passed, in which there was to be found a declaration of principles recommending to the several countries that they provide medical assistance for the indigent poor.

5. At the fifth meeting of the Fourth Commission during a roll call upon a Cuban declaration of principles of migration, the United States formally abstained from voting. (The Cuban declaration will be described in another portion of this report).

6. At the third plenary session on April 17 following a resolution presented to the Conference by the Fourth Commission regarding the general principles of codification of material relating to migration, Dr. Long, who announced the votes of the American Delegation throughout the plenary sessions, found it necessary to say:

"When the name of the United States was called recently somebody answered yes by mistake. I wish to say that the United States does not vote."

7. At the fourth plenary session of the Conference held on April 17, the following resolution regarding the convening of a third conference was presented by the Fifth Commission:

"1.) That a Third International Conference on Emigration and Immigration meet at Madrid on a date to be fixed after the interested nations (note: the phrase 'interested nations' as used in this document, is understood by the Delegation to refer to those nations represented at the Habana Conference) have been consulted on the subject by the Committee referred to in the following paragraph and after a majority of them have expressed their assent.

"2.) That the Directing Committee of the Habana Conference (i. e., the President and Vice Presidents of the Conference and the Chairmen and Vice Chairmen of the Commissions of the Conference) be entrusted, under the name of the Committee of Organization, with the work preliminary to the Madrid Conference, to which the Committee will submit the general report regarding steps taken by the different governments to give effect to the resolutions adopted by the Conference of Habana.

"3.) That said Committee may, subject to the assent of the interested Governments, invite the collaboration of those members of the former Committee of Rome whose assistance is deemed advantageous.

"4.) That said Committee may, subject to the assent of the interested Governments, transfer its seat and propose the organization of an auxiliary secretariat if it deems such a course advisable.

"5.) That the said Committee be authorized to collect the archives of the two International Conferences on Emigration and Immigration in order that it may, within the scope of its authority, facilitate the

⁷⁵ *Foreign Relations*, 1923, vol. I, pp. 286 ff.

putting into effect of the resolutions adopted by those Conferences, and may undertake the publication of documents and studies whose distribution may be deemed desirable.”

The resolution was voted upon paragraph by paragraph and upon the motion of Prince Sturdza, Chairman of the Fifth Commission, the vote on the first two paragraphs was made by acclamation. The American Delegation had been prepared to abstain from voting on a roll call, and to make this abstention a matter of official record as it had done in the case of all previous votes taken in the plenary sessions of the Conference. However, the Delegation considered that under the recognized rules of procedure in international gatherings, such a vote by acclamation could not be regarded as in any way binding upon this Government. It further felt that its position had already been made so clear in the meetings of the Conference and its Commissions that a further statement at this juncture would be distinctly inopportune and might weaken the effect of the statements it had already made. The Delegation, therefore, refrained from further defining its abstention from this vote by acclamation. Nevertheless, to avoid any possibility of a misunderstanding as to the effect of this vote upon the Government of the United States, the Delegation, at the conclusion of the meeting, explained verbally to officials of the Cuban Department of State that the United States could not consider the procedure of adopting by acclamation the resolution regarding the holding of a Third International Conference on Emigration and Immigration as in any way binding on the United States, and that the American Delegation wished to be understood as having abstained from voting on the resolution. The Cuban officials confirmed the Delegation's understanding of the non-binding effect of the vote by acclamation under reference and further noted the Delegation's statement that it desired that it be considered as having abstained from voting on this matter.

8. At the closing session of the Conference on April 17, Dr. Long addressed the Conference in Spanish to express the American Delegation's pleasure at having taken part in the labors of the Conference and its thanks to the Cuban Government for its hospitality:

“I have asked for the floor in the name of the Delegation of the United States of America to express a sentiment we have at this moment, and in evidence of our sincerity I venture to utter it in Spanish, which is a rather difficult thing to do.

“In the first place, I wish to say how much we appreciate our having had the privilege of attending so important and informative an event as this Conference has proved to be. To be present at the debates, to listen to the opinions of the several Delegates and the findings of the Committees has proved an education on the subject of world migration.

“In addition to this I wish to express our most sincere thanks to the Republic of Cuba and the people of Habana for the very affectionate

hospitality that has been extended to us during our stay here. Whenever we come to Habana we are met with the most affectionate hospitality.

"Finally, I wish to express our deep admiration for the ability and skill with which our President, His Excellency, Doctor Fernando Sánchez y Fuentes, has conducted our deliberations, the tact with which he has managed debates, and the manner in which he has recognized the rights and wishes of all the Delegates. I will close by wishing him all kinds of happiness and prosperity in life."

While the avowed purpose of the Conference was to discuss technical and non-political questions regarding emigration and immigration in order to establish a basis for international cooperation in such matters, the principal question before the Conference was that of the manner and means whereby international consideration of the problems of emigration and immigration could best be conducted. As has been stated, the preparatory work of the Habana Conference was carried on by the Committee of Control of the Rome Conference of 1924, following the adoption of the 1924 resolution in favor of a second conference. With the completion of the organization of the Habana Conference, the responsibility for forwarding the proposals of the Rome Committee passed to the Presidential Committee of the Habana Conference, which acted as a steering committee during the sessions of the second Conference.

The main question for the Conference to decide was that of the method to be adopted for carrying on the work of the First and Second Conferences and the creation of a suitable body for that purpose. This, in turn, developed the question of:

- (a) Codification of information relating to migration problems;
- (b) Recognition of a set of general principles of migration;
- (c) The holding of a third Conference and
- (d) The creation of a body to prepare the agenda of a third Conference.

The matter of codification was settled with comparative ease by the adoption of the first resolution of the Fourth Commission:

"1) That the countries of emigration and of immigration proceed as soon as possible, if they have not already done it, to make a compilation of their legislation concerning emigration, transmigration and immigration and also of their legislation regarding agricultural and industrial labor, with a view to making progress with the codification of questions on which an international agreement has been concluded.

"2) That the committee to be appointed for the preparation of a third International Conference on Emigration and Immigration be entrusted with all the preparatory work for the codification of matters relating to migration on which an agreement has been concluded among the countries concerned.

"3) That this Committee invite the League of Nations, the International Labour Office and the International Institute of Agriculture

to continue the work undertaken by them referring directly or indirectly to migration and which they have carried out hitherto so effectively."

However, the other questions, which were treated as a body by the Fourth Commission, revealed marked divisions of opinion in the Conference, and it is thought that a brief sketch of the various stages of the discussions on these three questions may be of interest as illustrative of the general trend of the Conference.

At the outset of the Conference the Delegation learned that Dr. Harry H. Laughlin of New York, a well known American authority on eugenics, was attending as a representative of the Pan American Office of Eugenics and Homiculture, and that he hoped to secure the support of the Pan American nations for a declaration regarding the principles of migration. In brief, his program consisted in an extensive statement of the biological and eugenic phenomena involved in migration problems; it recognized control of both emigration and immigration to be an exclusive and unalienable function of sovereignty and, therefore, to be regulated by each sovereign nation and migration entity in respect to itself; and it recommended that the current series of conferences on the subject be discontinued and that the International Labor Office at Geneva be asked to continue its work and studies on migration. Dr. Laughlin informally approached the Delegation with a view to securing its endorsement of his program but was informed that the Delegation could not support any declaration of general principles. Following this overture, the Delegation decided that its efforts should be directed against the possible adoption by the Conference of this or similar proposals and accordingly asked and obtained authority from the Department to object to the introduction of Dr. Laughlin's proposal on the ground that it dealt with matters beyond the scope of the Conference, and to make the following statement should developments in the Conference indicate that such a course would be desirable:

"In view of the vital questions of sovereignty involved in discussions of the international aspects of emigration and immigration, it is obvious that the only useful purpose to be served by international conference such as this lies in facilitating the exchange of information. It is the belief of my Government that this purpose can be adequately and effectively served by direct correspondence between governments and between organizations interested in these matters. My Government therefore suggests that the Committee of the Rome Conference be dissolved and that the present Conference be permitted to dissolve without providing for a continuation of its labors other than through the channels I have indicated. In making this suggestion I wish to express my Government's appreciation of the manner in which the Committee of the Rome Conference has carried out its duties, the personal satisfaction I have experienced in my association with the labors of this Conference and my most hearty appreciation of the courtesy and hospitality accorded us by the Cuban Government."

However, developments were such that the Delegation found it unnecessary to make use of this authorization.

Nevertheless, it became evident that views similar to those of Dr. Laughlin were held by certain of the delegates to the Conference when, at the third meeting of the Fourth Commission on April 11, the Cuban Delegation introduced a resolution rehearsing a set of general principles of migration closely analogous to those set forth in Dr. Laughlin's informal proposal and recommending that the task of carrying on the work of the First and Second Conferences on Emigration and Immigration be entrusted to the members of the Committee of Control of the Rome Conference which should sit at Geneva under the title of the International Office on Emigration and Immigration (see annex). At the same meeting the Mexican Delegation introduced as an alternative proposal the same resolution on the general principles of migration which it had advanced at the Sixth Pan American Conference and which contained the following clause:

"No one of the American States may place obstacles in the way of migration and immigration of the other American States nor limit it to a determined number of citizens of another American State." (For full text see annex)

A lively discussion then took place from which it appeared that the Cuban proposal would require considerable modification before it could hope to obtain favorable consideration by the Conference and the meeting accordingly adjourned after referring the Mexican proposal to a subcommittee for examination.

At the Fifth Session of the Fourth Commission on April 13 the Cuban proposal was presented once more, this time divided into two distinct proposals, (1) a somewhat modified general declaration of principles and (2) a resolution providing for the continuation of the work of the Conferences on Emigration and Immigration by the Rome Committee under the title of the International Office on Emigration and Immigration which would sit at Geneva. The Spanish Delegate then arose and presented a counterproposal to take the place of the Cuban resolution regarding the continuation of the work of the Conference, in substance as follows:

"1. That there is no occasion for the establishment of new international bodies, for it (i. e., the Conference) trusts that those which are now dealing with these questions will carry on their work with the same skill and efficiency they have displayed so far.

"2. That the wish be expressed to the respective governments to the end that, pending the holding of a new Conference and in the period intervening between its sessions, the Directing Committee of the Havana Conference take over the same functions which were discharged by the Directing Committee of Rome, empowering the said Directing Committee to the end that, in agreement with the respective

governments, it may change its seat, should it so deem necessary, and propose the organization of an auxiliary Secretariat". (For full text see annex)

A heated debate ensued revolving about the question whether this new proposal could be discussed before the Commission had acted upon the Cuban resolution. However, the Commission, in spite of Cuban protestations that the Cuban Government could not assume the responsibility entailed in the Spanish resolution, finally adopted the Spanish proposal, paragraph 1 by a recorded vote of twenty-four ayes to three noes and paragraph 2 by twenty-one ayes to no noes with ten abstentions. The discussion then turned to the Cuban declaration of principle which the Rumanian Delegate proposed be referred to the new Committee for consideration at the Third Conference. The vote upon this proposal resulted in nine ayes and two noes with eighteen abstentions. As noted above, the American Delegation formally abstained from voting on these roll calls. As the meeting concluded, the Cuban Delegation once more protested the inability of the Cuban Government to assume the responsibilities involved in the adoption by the Conference of the Spanish resolution and the meeting adjourned leaving discussion of the Mexican proposal as to a declaration of principles to the following day.

At the Sixth Session of the Fourth Commission, held the morning of April 14, the subcommittee in charge of the Mexican proposal reported that the Mexican Delegation had eliminated the clause in its proposal regarding Pan American migration (see above) but that the subcommittee had been unable to agree whether the Conference should do more than note the Mexican proposal on the official record.

No further meetings of the Fourth Commission took place and accordingly the Cuban and Mexican proposals as to declarations of principles were next discussed at the third plenary session of the Conference on April 17. After a heated discussion the Mexican Delegate succeeded in having the Conference take official note of the resolutions on emigration and immigration adopted by the Sixth Pan American Conference, and in having his declaration of principles referred to the Third International Conference on Emigration and Immigration by a vote of seventeen ayes and no noes with fifteen abstentions. (It was in course of this vote that Dr. Long made the declaration noted above). At this juncture the Cuban Delegation withdrew its own declaration of principles which was to have been referred to the consideration of the Third Conference and the session adjourned, having only the question of the resolution as to the holding of a Third Conference to be passed upon by the Conference.

This was speedily accomplished at the final plenary session of April 17 by the adoption of a resolution based upon the Spanish proposal. (The text of that resolution is given in an earlier portion of this

report) The attitude of the American Delegation regarding the vote of acclamation in favor of this proposition has been described elsewhere in this report.

The business of the Conference being then concluded, the closing session took place in the afternoon on April 17 with Dr. Rafael Martinez Ortiz, Cuban Secretary of State, presiding, and appropriate addresses were delivered by Dr. Sánchez de Fuentes, President of the Conference, Dr. Long of the American Delegation (see above), Signor Vivaldi of Italy, Señor Vicente Palmaroli of Spain, Señor Perez Alfonseca of Santo Domingo, Señor Grandi of Argentina, Mr. Aoki of Japan, Mr. Gawronski of Poland, and finally by Dr. Ortiz, who, in the name of the President of Cuba, declared the Conference at an end.

The attitude of the American Delegation, throughout the debates described above, was, in view of its instructions, a passive one. Of the two proposals as to the method of carrying on work of the Conferences, the American Delegation considered the Spanish resolution placing the task in the hands of the Presidential Committee of the Habana Conference much more desirable than the Cuban resolution perpetuating the Rome Committee under the name of the International Office on Emigration and Immigration at Geneva, and it went to the extent of asking authorization from the Department to support the Spanish resolution openly in the commission meetings and the plenary sessions, should developments appear to justify an active intervention in the proceedings on the part of the United States. However, the Department was of the opinion that any departure from the attitude previously taken by the Delegation would be undesirable and accordingly withheld the authorization which the Delegation had requested. However, by the time that the Department's views had been signified to the Delegation, any necessity which might have existed for positive action on the part of the American Delegation had been obviated by the overwhelming support given the Spanish proposal, notably by the Pan American nations, and accordingly the Department's decision to deny this authorization was in no sense a source of embarrassment to the Delegation.

As will appear from the foregoing, there will not be a Third International Conference on Emigration and Immigration until a majority of the interested nations (i. e., those represented at Habana) express their desire for such a Conference. In the meantime the task of preparing the agenda of a third Conference is left in the hands of the Presidential Committee of the Habana Conference, of which the United States is technically a member through the election of Mr. Husband as one of the ten Vice Presidents of the Habana Conference. The only question left for this Government to determine is whether it shall continue to hold its right to a place on this Committee. In some

respects it might, on the surface, be more consistent with the attitude of the United States toward the consideration by international gatherings of problems of immigration, which it regards as a purely domestic question in which the authority of Congress is exclusive, for this Government formally to withdraw from the Habana Committee. However, on the general question of American policy as to immigration, the statements and actions of the American Delegation have left no room for misapprehensions on the part of other Governments and it is not perceived that a gesture such as a formal withdrawal from the Habana Committee is needed to emphasize this point. On the other hand, both for the purpose of observation and more particularly for the purpose of cooperating with the Pan American nations, whose interest in immigration matters is closely analogous to that of this Government, the retention of the technical right to this place would appear desirable. It may further be observed that withdrawal of the United States from the Committee would destroy the present majority by which control of the Committee lies in the hands of the Pan American nations and would enable the countries of emigration to obtain that control. The question does not call for urgent decision as it is most unlikely that this Government will be asked to function in its capacity as a member of the Habana Committee or to assume any responsibilities in connection therewith for an appreciable length of time. It is, therefore, the recommendation of the Delegation that the decision on this question be deferred until such time as the United States may be asked to take active part in the work of the Committee when, it is believed, the question can be adequately decided in the light of the considerations presenting themselves at that time.

This report would be incomplete without a reference to the cordial reception and the many courtesies extended by the Cuban Government and its officials to the delegates to the Conference. These included a reception given by the President of Cuba in the Presidential Palace, dinners given by the Secretary of State, by the Mayor of Habana, and by the President of the Conference, and official excursions to Mariel to visit sugar plantations and mills, to Tricornia to visit the new Cuban Immigrant Receiving Station established there, and visits to many Cuban manufacturing plants in and near Habana. The relations of the American delegates with their Cuban hosts and with their colleagues were pleasant and cordial to a degree. The American delegates also received cards from the Habana Country Club, the Habana Yacht Club and the American Club of Habana, and were the recipients of many other courtesies, both official and unofficial.

In closing, the Delegation would wish to express its appreciation of the helpful assistance and cooperation given it by the American Ambassador to Cuba and his staff. In particular, thanks, both official and

personal, are due Mr. Williamson and Mr. Shields, the Disbursing Officer at Habana, for the extremely efficient arrangements made for the activities and work of the Delegation. The clerical force is to be commended for its spirit and its efficiency and the Delegation feels that its success—for it believes its mission to have been a success—was in large measure due to the assistance and support rendered it by its staff, by the American Embassy in Habana and by the cooperation it received from Washington.

Respectfully submitted,

For the Delegation,
W. W. HUSBAND, *Chairman*
HENRY CARTER, *Secretary*

555.H2/158

The Secretary of State to the Cuban Chargé (Altunaga)

WASHINGTON, September 14, 1928.

SIR: I beg to acknowledge with thanks the receipt of your note of August 24 enclosing three copies of the Final Act of the Second International Conference on Emigration and Immigration held in Habana, March-April, 1928, one of the copies being certified by the Under Secretary of State of Cuba.

In your note you touch upon the possibility of this Government's adhering to the resolution adopted by the Habana Conference regarding the holding of a third International Conference on Emigration and Immigration in Madrid, the organization of which would be in the charge of the Directing Committee as provided in paragraphs one and two of the resolution under reference.

It will not have escaped the attention of your Government that the delegates of the United States to the Second International Conference on Emigration and Immigration abstained from voting on the resolution in question as well as upon the other resolutions presented to the Conference, and it will be recalled that following the adoption of the resolution under reference they explained verbally to officials of the Conference that they did not consider the vote of acclamation adopted by the Conference with respect to paragraphs one and two of the resolution as in any way binding upon the United States and that they wished to be understood as having abstained from voting upon those paragraphs. In order to avoid any possibility of misunderstanding upon this point, I take this occasion formally to confirm the statements made at that time by the American delegates.

With regard to the possibility of the United States adhering to the resolution regarding the holding of a third Conference in Madrid,

I would advert to the traditional attitude of the United States on the subject of immigration as set forth by the American delegates to the Habana Conference to the effect that the Government of the United States considers the control of immigration to be a matter of purely domestic concern, representing the exercise of a sovereign right, and that, so far as the United States is concerned, the authority of its Congress in immigration matters is exclusive. In view of the very definite manner in which the Congress has exercised this authority, particularly in the passage of the Immigration Act of 1924, and considering the fundamental divisions of opinion on the subject of immigration which developed at the Habana Conference, this Government is constrained to state that in its view no useful purpose is served by such Conferences other than the exchange of technical information, an aim which it believes can be satisfactorily achieved by direct correspondence between Governments and international organizations. The Government of the United States must therefore state that under existing circumstances it is not disposed to adhere to the resolution in question nor to participate in a third International Conference on Emigration and Immigration, and I should be grateful if you would be good enough to convey its views, with regard to the holding of a third International Conference on Emigration and Immigration, as here expressed, to the appropriate quarter.

Accept [etc.]

FRANK B. KELLOGG

SIXTH INTERNATIONAL CONFERENCE OF AMERICAN STATES, HELD
AT HABANA, JANUARY 16 TO FEBRUARY 20, 1928¹

Preliminaries

710.F/6

The Cuban Chargé (Barón) to the Secretary of State

[Translation]

WASHINGTON, *December 17, 1926.*

EXCELLENCY: The Fifth American International Conference held at Santiago, capital of the Republic of Chile, in 1923,² resolved to

¹ See also *Sixth International Conference of American States, Habana, Cuba, January 16, 1928, Special Handbook for the Use of Delegates*, prepared by the Pan American Union (Washington, Government Printing Office, 1927); *Program and Regulations of the Sixth International Conference of American States, To Assemble at Habana, Cuba, January 16, 1928, Adopted by the Governing Board of the Pan American Union* (Washington, Government Printing Office, 1927); *Sixth International Conference of American States, Havana, 1928, Final Act*; also *Report of the Delegates of the United States of America to the Sixth International Conference of American States, Held at Habana, Cuba, January 16 to February 20, 1928, With Appendices* (Washington, Government Printing Office, 1928).

² See *Foreign Relations, 1923*, vol. I, pp. 286 ff; also, *Report of the Delegates of the United States of America to the Fifth International Conference of American States, Held at Santiago, Chile, March 25 to May 3, 1923, With Appendices* (Washington, Government Printing Office, 1924).

name Habana, capital of the Republic of Cuba, for the place where the Sixth American International Conference shall meet, and the Cuban Government with the approval of the Pan American Union, has decided to open the said conference on the sixteenth of January, 1928.

In the name of the Government of Cuba I have the honor to invite the Government of the United States to be represented at the Sixth American International Conference and to say that my Government is greatly interested in having Your Excellency's Government send its delegates to the said conference, which, by virtue of its great labors which it is to carry out, will prove a substantial tie and strong foundation for genuine American brotherhood.

The program of the Sixth American International Conference will be directly delivered by the Pan American Union to Your Excellency's Government as soon as it is finally approved.

My Government would be grateful if the Government, in the event of accepting the invitation, would kindly let it know as soon as possible the names and number of its delegates.

I avail myself [etc.]

JOSÉ BARÓN

710.F/6

The Secretary of State to the Cuban Chargé (Barón)

WASHINGTON, January 6, 1927.

SIR: I have the honor to acknowledge the receipt of your Embassy's note of December 17, 1926, by which I am informed that the Cuban Government has decided to open the Sixth International Conference of American States on January 16, 1928, and the Government of the United States is invited by the Government of Cuba to participate therein by delegates.

In reply you are informed that the Government of the United States accepts the invitation with pleasure, and that you will be advised at a later date as to the number and the names of its delegates.

Note is taken of your statement that the program of the Conference will be delivered to this Government by the Pan American Union as soon as it shall have been finally approved.

Accept [etc.]

For the Secretary of State:

J. BUTLER WRIGHT

710.F/122a : Telegram

The Secretary of State to the Chargé in Cuba (Curtis)

[Paraphrase]

WASHINGTON, November 8, 1927—7 p. m.

85. The *New York Times* this morning publishes a despatch with Geneva date line as follows:³

“At the request of the Cuban Government, the League of Nations has decided to send a member of the League Secretariat to Habana to follow the proceedings of the Pan American Union Conference in January.”

Please bring this press statement immediately to the attention of the Foreign Minister and ask him if it is correct. If the answer is in the affirmative, you will please state the views of the Government of the United States as set forth in the enclosure to instruction No. 1086, October 26, 1927.⁴ You may add that the Government of the United States feels that no non-American nation or entity should participate or be present at the Pan American Conferences, and it hopes that the Government of Cuba will concur in this view and will not have any such representatives present.

You should make it clearly understood that no criticism or disparagement of the League of Nations is intended, when it is observed that the Pan American Conference is organized upon a separate and distinct basis. The League of Nations is intended to be world-wide in its scope and a number of American States are members of the League of Nations and are thus able to express their viewpoints on matters of world-wide import which come before the attention of the Council and the Assembly of the League of Nations, respectively. The Pan American Conferences have their existence because of the distinct interests of the American States which, without any antagonism to any world relationship, make it desirable for these States to confer with respect to the problems which relate expressly to the States of the Western Hemisphere. Participation in the Pan American Conference of representatives of the League of Nations would bring to the Conference the policies and viewpoints of States which are members of the League of Nations and are not American States and thus the nature of the Conference itself would be fundamentally altered. The scope of the Pan American Conference is confined to aims and interests of this hemisphere, and the integrity of the Conference as an exclusively American conference should be maintained if its usefulness is to be preserved.

³ Quotation not paraphrased.

⁴ Not printed.

Should the Government of Cuba have issued such an invitation, you will call attention to article 22 of the regulations of the Sixth International Conference of American States which provides:⁵

“Attendance at the deliberations of the Conference shall be confined to the following: The delegates with their respective secretaries and attachés; the Director or other accredited representative of the Pan American Union and his secretary; the secretaries of the sessions; the interpreters and stenographers of the Conference; such representatives of the press as are properly accredited and as are approved by the Committee on Organization; and the authorized attendants: *Provided, however,* That the Conference may by a majority vote extend the courtesies of the Conference to such persons as it may at any time designate.”

You may state in this connection that perhaps the Government of Cuba had not yet received copies of these regulations when it issued the invitation, and that the provision of this article might conveniently afford a way out, permitting the Government of Cuba to inform the League of Nations that, on account of this, it would not be possible for a representative of the League of Nations to attend the Conference unless and until the Conference, by a majority vote, should extend to him the courtesy of the Conference.

You may also request an audience of the President and express the same views to him if you deem it to be necessary.

KELLOGG

710.F/123: Telegram

The Chargé in Cuba (Curtis) to the Secretary of State

HABANA, November 9, 1927—3 p. m.

[Received 5:25 p. m.]

108. Department's 85, November 8, 7 p. m. Minister for Foreign Affairs sent for me this morning, and referring to a telegram from Cuban Ambassador at Washington informed me that the Cuban Government not only did not invite a representative of League of Nations to be present at forthcoming Conference but that when the Secretary General requested an invitation it was refused.

The Spanish Chargé d'Affaires, Habana, also approached the Cuban Government and was refused an invitation for his Government to be represented.

CURTIS

⁵ Quotation not paraphrased.

710.F/130

The Chargé in Cuba (Curtis) to the Secretary of State

No. 2352

HABANA, November 9, 1927.

[Received November 14.]

SIR: I have the honor to acknowledge the receipt of the Department's cable No. 85, November 8, 7 P. M., 1927, concerning a newspaper report to the effect that the League of Nations has been invited by the Cuban Government to send an observer to attend the meetings of the Sixth Pan American Conference, to be held in Habana next January.

Before the deciphering of the above mentioned cable had been completed I received a message that the Cuban Secretary of State wished me to come to see him. In accordance with his request I called to see him later in the morning. He opened our conversation by giving me information on a subject of decidedly minor importance and then, of his own accord, brought up the subject of the Department's cable, concerning which he had received a cable from the Cuban Ambassador in Washington. He stated that the reports which had been appearing in the foreign press and even in the Habana newspapers to the effect that Cuba had invited the League of Nations to send an observer were not merely inaccurate but absolutely contrary to the facts; that the Secretary of the League of Nations had approached the Cuban Secretary at Geneva, Mr. William de Blanc, and had stated that the secretaryship of the League of Nations would greatly appreciate the opportunity to have an observer at the meetings of the Conference; that Mr. de Blanc had promptly cabled to the Secretary of State, who immediately replied to the effect that the Cuban Government was not in a position to extend any such invitation under any circumstances and that its position as host to the delegations of the other American nations would make it an act of discourtesy for it even to suggest to those nations that such an invitation might be extended. He further read to me the text of a cable, which was at that moment being enciphered for transmission to Ambassador Ferrara, repeating the statements which he had just made to me and adding assurances of the great desire of the Cuban Government to cooperate with that of the United States in every way concerning all matters connected with the Pan American Conference.

In view of the Secretary's voluntary action in giving me all the information which I could have desired, I made no mention to him of the cable from the Department, since I felt that Ambassador Ferrara had probably already emphasized sufficiently the Department's interest in the matter and I did not desire the Secretary to feel that this Embassy was further attempting to influence the attitude of the Cuban Government in this matter.

In connection with the foregoing the Cuban Secretary of State informed me that just after his return from his long vacation, on October

21st, the Spanish Chargé d'Affaires here sought from Dr. Campa, the Cuban Undersecretary of State, an invitation for the Spanish Government to be represented at the Conference by an observer; that Dr. Campa made answer in substantially the same terms as the answer given to the League of Nations, as reported above; that the Spanish Chargé d'Affaires returned a few days later and sought from the Secretary of State the invitation which had already been refused by his subordinate. Needless to say, the Spanish Chargé received on the second occasion the same answer as on the first.

It would seem that the reply made to the Spanish Ambassador in Washington by Mr. White, as reported in the Department's strictly confidential instruction No. 1086 of October 26, 1927,⁶ was not sufficient to discourage the Spanish Government from making further efforts to obtain an invitation to be represented by an observer.

As to the report published in the *New York Times*, I quote below a translation of an Associated Press despatch published in the *Diario de la Marina* of yesterday:

"Geneva, Nov. 7. (AP). At the instance of the Cuban Government the League of Nations has decided to send to Habana a member of the secretariat as 'observer' of the progress of the sessions of the Pan American Conference which are to take place next January."

As I did not wish to take up this matter formally with the Secretary of State, Dr. Martínez Ortíz, I sought an interview with the Undersecretary, but found that he would not be at the State Department during the day. Mr. Williamson, Second Secretary of this Embassy, was, however, going to the State Department to seek information concerning other minor matters, and, at my request, he inquired casually of Sr. Carbonell, the Chief of the Pan American Bureau and in direct charge of Cuba's preparations for participation in the Pan American Conference, as to the truth of this report. Mr. Williamson was informed that there was not the slightest truth in it and that Cuba realized fully that it could extend no such invitation, even should such be its desire, without consulting all of the other nations which are members of the Pan American Conference.

I have [etc.]

C. B. CURTIS

710.F/123 : Telegram

The Secretary of State to the Chargé in Cuba (Curtis)

WASHINGTON, November 10, 1927—6 p. m.

87. Your 108, November 9, 3 p. m. This afternoon's *Washington Star* publishes following Associated Press despatch dated Geneva, November 10:

⁶ Not printed.

"Although the League of Nations does not intend to send an official observer to the forthcoming pan-American conference in Havana, the League secretariat probably will participate in the work of preliminary organization for the conference.

An official note issued today said that the League secretariat was sending Cristobal Rodriguez to Havana. Rodriguez is a Panamanian and a member of the secretariat. It also is reported that one or more League interpreters may go to the conference.

It appears that Cuba, which is a member of the League council, first consulted Sir Eric Drummond, League secretary, concerning technical points connected with preparation for the conference, which is scheduled to open in January, because of the League's vast experience in arranging such affairs. Sir Eric appointed Senor Rodriguez to supply the requested information, and soon after Cuba asked whether Rodriguez could not be sent to Havana. To this Sir Eric agreed.

Although the League does not intend to send an official 'observer,' it is understood that Rodriguez will make a report, especially because of the fact that the League is seeking to augment its links of liaison with its Latin American members."

Please inquire immediately regarding this and report definitely regarding measures taken by Cuba with the League in connection with coming Conference. It is most important that the Department know exactly what has been done and whether any official of the League has been requested to come to Habana and if so when and for what purpose.

KELLOGG

710.F/124 : Telegram

The Chargé in Cuba (Curtis) to the Secretary of State

HABANA, November 11, 1927—3 p. m.

[Received 3:50 p. m.]

109. Your number 87, November 10, 6 p. m. Minister of Foreign Affairs informs me that the Secretariat of the League of Nations was consulted concerning the strictly mechanical preparations for the Conference and Rodriguez was anxious to come to Habana to assist but . . . Cuban Government has refused to allow him to come in any but a purely personal capacity. It has been absolutely impossible to find any competent interpreters in Cuba and the League has therefore been asked whether some of its interpreters could be obtained as individuals to serve during the period of the Conference, subject to there being no objection on the part of any other members of the Conference. He stated that no official of the League had been invited to come to Cuba in any capacity whatsoever.

CURTIS

710.F002/191a

*The Secretary of State to the American Delegation*¹

WASHINGTON, January 5, 1928.

SIRS: The International Conference of American States to which you have been designated as representatives of our country is the sixth conference of this type to be held on the Western Hemisphere, covering a period of approximately forty years. It is an established principle of our international policy that: "Among the Foreign Relations of the United States as they fall into categories, the Pan American policy takes first place in our diplomacy."

In this regard I wish to express your Government's appreciation of the importance of the occasion and its sense of the responsibility you have undertaken in accepting appointment to represent it at a gathering where there will be present delegates from all the American Republics.

Our country has occupied a unique position with regard to the nations of Latin America. Our national individuality and independence were acquired before theirs, and when they achieved independence, they turned to us for moral guidance and support. But today and for many years past, they have stood alone, free, independent, self-reliant. The United States does not desire and in no sense can it be contemplated that any of the American peoples should be in a state of tutelage. We wish the fullest possible development of the national life of the republics of America in complete accord with their own national characteristics and aptitudes. If it is possible for us to assist them in any way, through our development and our achievements in science and industry, we shall be glad to extend such assistance in the most friendly manner, but we shall not proffer it unless it is desired. The policy of the Government of the United States towards the Republics of Latin America is one of mutually beneficial cooperation, and it is of paramount importance that the spirit of this policy be manifested in your attitude and action at the Conference.

To the task of these conferences, which in the first instance was consultative and recommendatory only, has been added that of approval. The programs of the various conferences, which dealt primarily with political, commercial and social matters included subjects concerning which an element of controversy was notably absent. Only those topics were inserted about which the American States held similar opinions and where a complete accord might be looked for through a friendly and frank exchange of views. In this con-

¹The members of the delegation were: Charles Evans Hughes, chairman; Noble Brandon Judah; Henry P. Fletcher; Oscar W. Underwood; Dwight W. Morrow; Morgan J. O'Brien; James Brown Scott; Ray Lyman Wilbur; and Leo S. Rowe.

nection, and as stated in the instructions to the American delegates to the Fifth Pan American Conference:⁸ "It should be borne in mind that the function of these Pan American Conferences is to deal so far as possible with non-controversial subjects of general interest, upon which free and full discussion may be had with the purpose and probability of arriving at agreement and cooperation. International questions which cause prolonged, and even bitter and controversial debate, are not infrequently, in their important aspects, of actual interest only to a small group of nations. It is believed that in this Conference the most fruitful results will be obtained if discussion is confined to those aspects of the various topics which are of interest to all the Republics. In this connection, you will bear in mind that the present Conference has not been called to sit in judgment on the conduct of any nation, or to attempt to redress alleged wrongs."

It nevertheless is possible that attempts may be made to introduce for discussion subjects not incorporated in the program. For your guidance in such a contingency, there have been prepared a brief analysis of the political affairs of the several American Republics and an analysis of economic affairs, which are attached hereto as appendices Nos. 1 and 2.

As to results accomplished by the past Conferences, I am happy to state that projects have been endorsed and recommendations made on matters political, commercial and sanitary which have had a profound and far reaching influence on the course of events in this Hemisphere. Since the first International Conference of American States it is noteworthy that there has not been a declaration of war between any of the American States, although armed disturbances have occurred. The coming together of men typical of the best feeling and thought of all the republics brings about a gradual growth of mutual understanding upon which it is possible to build solid international friendships founded in justice, respect, good-will, and tolerance. It is for this that I desire you to give your studious attention not only to the particular subjects before the conference but also to the task of becoming imbued with the spirit which animates the American policy of the United States, so that the tone of your whole attitude and action shall be in harmony with that policy.

The Fifth International Conference of American States, held at Santiago, Chile, adopted a resolution naming the City of Habana as the seat of the Sixth International Conference, and provided that the Governing Board of the Pan American Union, together with the Government of the Republic of Cuba, would fix the date thereof. In conformity with this resolution the date of January 16, 1928, was fixed for the convening of the Sixth Conference, and the Governing

⁸ Instructions not printed.

Board of the Pan American Union prepared the program which was approved on April 12, 1927, and submitted to the governments of the states members of the Pan American Union which reads as follows:

PROGRAM OF THE SIXTH INTERNATIONAL CONFERENCE OF AMERICAN STATES TO ASSEMBLE AT HABANA, CUBA, JANUARY 16, 1928

ARTICLE I

PAN AMERICAN UNION

Topic 1. Organization of the Pan American Union on the basis of a convention prepared by the Governing Board of the Pan American Union in accordance with the resolution adopted by the Fifth International Conference of American States on May 1, 1923.

ARTICLE II

MATTERS OF AN INTER-AMERICAN JURIDICAL NATURE

Topic 1. Consideration of the results of the Commission of Jurists which assembled at Rio de Janeiro.⁹

Topic 2. In view of the fact that the codification of international law has been entrusted to the Commission of Jurists which assembled at Rio de Janeiro, the commission has been recommended to give preferential attention to the study of "Methods for the pacific settlement of international disputes"; but if the commission should not have time to dispatch this part of its work, this topic will be considered included in the program and submitted to the consideration of the Sixth Conference.

Topic 3. The Commission of Jurists which assembled at Rio de Janeiro was entrusted, by resolution of the Fifth International Conference of American States, with making comparative studies tending toward uniformity in civil law, commercial law, procedure law and other branches of private law; and the Governing Board has recommended that they give preferential attention to the preparation of projects of uniform legislation on:

(a) Commercial law and other branches of legislation in which uniformity is possible and desirable;

(b) Maritime law, for the preservation of life and property on board ship;

(c) Principles to which the juridical status of companies organized in a foreign State should be adjusted, with a view to securing uniform standards;

(d) Legislative measures for extending to women the same civil rights as those enjoyed by adult males;

(e) Bases for determining the nationality of individuals with a view to eliminating the conflict of laws on nationality;

(f) Legislation designed to prevent the loss of nationality by a woman because of marriage;

(g) Recognition of the validity, by the authorities of the States represented at the Conference or which adhere to its conventions, of the acts and documents relating to the civil status of persons, estates, and contracts made by foreigners before the respective diplomatic and consular agents, and the preparation of a standard form for each of the aforesaid instruments;

(h) Commercial arbitration;

(i) Elimination of the differences in the juridical system relative to bills of exchange and checks, by means of an international agreement or uniform legislation;

(j) Organization and regulation of the international service of checks and postal money orders; and

⁹ See *Foreign Relations*, 1927, vol. I, pp. 364 ff.

(k) Regulation of the use of water power and other uses or applications of the waters of international rivers for industrial and agricultural purposes.

If the commission should not have time to prepare these projects, this topic will be considered included in the program and submitted to the consideration of the Sixth Conference.

Topic 4. Frontier Police.

ARTICLE III

PROBLEMS OF COMMUNICATIONS

Topic 1. Consideration of the results of the work of the Inter-American Commission on Commercial Aviation, provided for by resolution of the Fifth International Conference of American States.

Topic 2. Regulation of international automotive traffic.

Topic 3. Means for facilitating the development of fluvial inter-communication between the nations of America.

Topic 4. (a) International regulation of railway traffic;

(b) Consideration of the report of the Pan American Railway Committee.

Topic 5. Organization of a technical commission to study and recommend the most effective means for the establishment of steamship lines to connect the countries of America and to recommend measures for the elimination of all unnecessary port formalities.

Topic 6. Consideration of the results of the Pan American Highway Conference, which met at Buenos Aires in October 1925, in compliance with a resolution of the Fifth International Conference of American States.

Topic 7. Consideration of the results of the Inter-American Electrical Communications Conference, which met at Mexico City in compliance with a resolution of the Fifth International Conference of American States.

ARTICLE IV

INTELLECTUAL COOPERATION

Topic 1. Establishment of a Pan American geographical institute which shall serve as a center of coordination, distribution, and dissemination of geographical studies in the American States and as an organ of cooperation between the geographical institutes of America for facilitating the study of boundary questions between the American nations.

Topic 2. Recommendation to the countries of America that in their legislation they levy a minimum duty on the importation of books and minimum postal rates on books and periodicals.

Topic 3. Recommendation to the countries, members of the Union, that have not yet done so, to publish geodetic, geological, agricultural maps, etc., which will give an idea of their natural resources, possibilities of development, and also of their means of communication.

Topic 4. Revision of the Convention on Intellectual Property signed at Buenos Aires (1910).¹⁰

Topic 5. Establishment of scholarships and fellowships.

Topic 6. Exchange of professors and students.

Topic 7. To recommend the establishment of special chairs, supported or subsidized by the Government, for the study of the Spanish, English and Portuguese languages and of their respective literatures.

¹⁰ Malloy, *Treaties*, 1910-1923, vol. III, p. 2925; see also *Foreign Relations*, 1910, pp. 21-22, 57.

Topic 8. To recommend the establishment in the Universities of the countries, members of the Pan American Union, of special chairs for the study of the Commercial Legislation of the American Republics.

Topic 9. Consideration of the results of the Pan American Congress of Journalists, which met at Washington in compliance with a resolution of the Fifth International Conference of American States.

ARTICLE V

ECONOMIC PROBLEMS

Topic 1. Uniformity of legislation on consular fees.

Topic 2. Conference of chambers of commerce and, as a part of its program, organization of an inter-American chamber of commerce.

Topic 3. International aspects of immigration problems.

Topic 4. Revision of the conventions signed at Buenos Aires in 1910¹¹ and at Santiago, Chile, in 1923,¹² with a view to formulating changes which shall assure uniform and effective protection for trade-marks in the States members of the Pan American Union.

Topic 5. Consideration of the results of the Conference on Uniformity of Communication Statistics, which met at Lima in December, 1924, in compliance with a resolution of the Fifth International Conference of American States.

Topic 6. Consideration of the results of the standardization Conference which met at Lima on December 23, 1924, in accordance with a resolution of the Fifth International Conference of American States and the conference which met at Washington in 1927.

ARTICLE VI

SOCIAL PROBLEMS

Topic 1. Consideration of the action taken by the American States in complying with the recommendations of the Fifth International Conference of American States on the Pan American Maritime Sanitary Code.

Topic 2. Consideration of the action taken by the American States in complying with the resolution on principles and procedure in public-health administration, approved by the Fifth International Conference of American States at its session of April 16, 1923.

Topic 3. Consideration of the results of the Conference on Eugenics and Homoculture which will meet at Habana in 1927, in compliance with a resolution of the Fifth International Conference of American States.

Topic 4. Consideration of the results of the Conference of Directing Heads of Public Health Services which was held at Washington in September, 1926, in compliance with a resolution of the Fifth International Conference of American States.

Topic 5. Consideration of the action taken by the countries of America for the organization and development of national Red Cross societies, and the results of the Pan American Red Cross Conference referred to in the resolution adopted by the Fifth International Conference of American States on April 12, 1923.

¹¹ Malloy, *Treaties*, 1910-1923, vol. III, p. 2935. See also *Foreign Relations*, 1910, pp. 21-22, 38-41, and 49.

¹² *Foreign Relations*, 1923, vol. I, p. 297.

ARTICLE VII

REPORTS ON TREATIES, CONVENTIONS AND RESOLUTIONS

ARTICLE VIII

FUTURE CONFERENCES

You will note that the program is divided into eight Articles, which in turn are subdivided into thirty-two Topics. For your convenience the Department of State has prepared instructions applying to this program, which are attached hereto. As the conference progresses developments on certain of the topics of the program may necessitate a modification of the instructions. In this case the Department will supply such further advice and instruction as may be necessary for your guidance.

The Governing Board of the Pan American Union has also prepared the Regulations for the Sixth International Conference of American States which were unanimously approved by the Governing Board at the meeting on November 3, 1926, and which are attached hereto as Appendix No. 3.¹³

It will be noted in Article 24 of the Regulations governing the Conference, just cited, that the deliberations of the Conference shall be confined to such subjects as are contained in the Program, except when by a vote of two-thirds of the delegations the Conference decides to take under consideration a new matter submitted by one delegation and seconded by another. A motion to take under consideration a new subject shall be decided without debate. You will note, furthermore, that new subjects can be incorporated in the Program only at plenary sessions of the Conference.

Article 22 of these regulations prescribes the rules governing the attendance at the deliberations of the conference. Your attention is directed to the attached political memorandum and the advisability of excluding all applicants for official attendance at these sessions by non-American representatives.

Articles 6 to 8 of these regulations set forth the committee method of handling the business of the conference. The business of the last conference was greatly facilitated by a steering committee made up of the President of the Conference and the Chairman of each delegation with special powers over the calling of plenary sessions, program and general supervisory control. It is hoped a similar procedure may be followed in this conference.

¹³ For text of regulations, see *Program and Regulations of the Sixth International Conference of American States*, p. 5.

ARTICLE I

PAN AMERICAN UNION

Topic 1. Organization of the Pan American Union on the basis of a Convention prepared by the Governing Board of the Pan American Union, in accordance with the Resolution adopted by the Fifth International Conference of American States on May 1, 1923.

The Fifth Conference resolved to recommend to the Governments of the Republics of America the study of a project for the organization of the Pan American Union, in order that the Governing Board of the Pan American Union might present a draft of a Resolution or Convention to the Sixth Conference. In accordance with this resolution the Governing Board of the Pan American Union has prepared (consult pages 27 to 31 of the *Special Handbook*) a Project of Convention organizing the Pan American Union, which will be submitted to the Sixth Conference.

In general it may be said that the United States Government approves of this Convention. However, certain of its provisions show a tendency to accord very broad powers to the Pan American Union and to invest it with a political character which might be considered beyond the scope of such an organization, or are otherwise undesirable. In this connection, your attention is directed to Articles III, VI, XIV, XV, and XVI.

It is desired that you shall suggest the modification of the second clause of Article III of the project of the Convention for the organization of the Pan American Union to read as follows:

“A Director General, who shall have charge of the administration of the Pan American Union, with power to promote its most ample development, in accordance with the terms of this convention, with the regulations, and with the resolutions of the Board, to which body he shall be responsible. The Director General shall attend, in an advisory capacity, the meetings of the Governing Board, and of the Committees appointed by the Board for the purpose of giving such information as may be required. The Director General also shall attend in his official capacity the future International Conferences of American States. The expenses of the Director General and his assistants incurred through attendance at these Conferences shall be met out of the funds of the Pan American Union.”

Article VI, Paragraph 1, provides that the originals of diplomatic instruments signed at the International Conferences of American States, the minutes of their meetings, and all documents connected with the holding of the Conference, shall be placed under the custody of the Pan American Union. At present all original documents signed at International Conferences of American States are placed in the custody of the government in whose capital the Conference is held. Some advantages might be expected from having all conference

minutes and documents collected in one place instead of scattered among various capitals, as is the case today. At the present time it is very difficult to ascertain what countries have ratified the various Conventions, and you may therefore support this Article.

Article XIV provides that the states members of the Union "in so far as their internal legislation permits, shall take measures for sending to the Library of the Pan American Union one copy of each work published in the country". While it is not thought possible that the United States without legislative action can carry out the procedure contemplated in this Article it is thought that the clause reading "in so far as their internal legislation permits" is a sufficient safeguard that the United States is not assuming any obligation which it is unable to perform.

Article XV provides that each of the Government[s] members of the Union shall establish a committee composed of persons of experience in Pan American affairs, or an office attached to the Ministry of Foreign Affairs, to be entrusted with Pan American matters.

These committees or offices shall have the following duties:

(a) To cooperate with their respective Governments to obtain ratification of treaties and conventions, and to give effect to the resolutions adopted by the International Conferences of American States.

(b) To furnish the Pan American Union promptly with the information it may need in the preparation of its work.

(c) To present to the Union through the proper channels such projects as they may consider adapted to the purposes of the Union.

The establishment of a committee, such as that described above, would seem unnecessarily to expand the organization of the Pan American Union and its affiliated organizations. In a large measure such a committee would appear to duplicate the work of the national committees of the Inter-American High Commission. It is thought that the committees of the Inter-American High Commission, already organized, could well undertake the functions which it is intended the committee described in this Article shall undertake, and it is believed that if practicable the Inter-American High Commission might even be merged into the Pan American Union. If other nations members of the Pan American Union desire to establish such a new committee, there would of course be no objection on the part of the United States, but you should be careful not to commit the United States to follow their example. Neither does this Government feel the necessity for creating a new office attached to the Department of State and entrusted with affairs connected with the Pan American Union. This function is already fulfilled by the Division of Latin American Affairs, which acts as a liaison office between the Department of State and the Pan American Union. It is thought that the Division of Latin American Affairs of

the Department of State can fulfill all the functions set forth in clauses *a*, *b* and *c* of Article XV quoted above.

Article XVI provides for the formation of a pension and retirement fund. The United States is disposed to encourage this plan, although, of course, any contributions to be made to it outside of the regular revenues of the Pan American Union would be subject to Congressional action.

ARTICLE II

Topic 1. Consideration of the results of the Commission of Jurists which assembled at Rio de Janeiro.

Topic 2. In view of the fact that the codification of international law has been entrusted to the Commission of Jurists which assembled at Rio de Janeiro, the commission has been recommended to give preferential attention to the study of "Methods for the pacific settlement of international disputes"; but if the commission should not have time to dispatch this part of its work, this topic will be considered included in the program and submitted to the consideration of the Sixth Conference.

(NOTE: In connection with the following instruction, your attention is directed to Supplement (*b*), pages 1 and 2, attached) ¹⁴

CODIFICATION OF PUBLIC INTERNATIONAL LAW

[Here follows information on previous efforts taken by American States toward the codification of international law.]

On January 2, 1924, the Chairman of the Governing Board of the Pan American Union laid before the Board the following resolution:

"Whereas, The Fifth International Conference of American States adopted a vote of thanks for the results achieved by the American Institute of International Law; and,

"Whereas, One of the purposes for which the American Institute of International Law has been established is to secure a more definite formulation of the rules of international law; and,

"Whereas, The codification of the rules of international law is the most important task entrusted to the International Commission of Jurists, and,

"Whereas, The labors of the American Institute of International Law will be of great service to the International Commission of Jurists in the fulfillment of the task assigned to it.

"Be it Resolved:

"By the Governing Board of the Pan American Union to submit to the Executive Committee of the American Institute of International Law the desirability of holding a session of the Institute in 1924 in order that the results of the deliberations of the Institute may be submitted to the International Commission of Jurists at its meeting at Rio de Janeiro in 1925." (*Am. Journal Int. Law*, 1924, Vol. 18, p. 269).

¹⁴ *Post*, p. 544.

In instructions given to the American delegates to the Conference at Rio de Janeiro,¹⁵ the Department stated that "Codification is a clear, systematic and authoritative statement of existing law; it does not involve the framing of new legislation. The Delegates of the United States to the Congress of Jurists should not, therefore, participate in the drafting of new international legislation embodying changes in the existing systems of law of the Nations of the Western Hemisphere." (File No. 710 C 2/211 b).

It would appear from the foregoing that the Commission of Jurists, and especially the American delegates, were to limit their activities to the codifying of International Law. Of the twelve projects on Public International Law which the Commission has recommended for consideration,¹⁶ three are hardly to be regarded as proper subjects for incorporation in a code of International Law. The Department has in mind project No. V, concerning the Exchange of Publications, Project No. VI, regarding Exchange of Professors and Students, and Project No. X having to do with Asylum.

There is attached a memorandum in which these twelve projects have been briefly analyzed and discussed (Appendix No. 6).¹⁷ Generally speaking, those Articles which have not been mentioned are to be regarded as unobjectionable. None of the projects is free in its entirety from objection. In many cases the Commission of Jurists has set forth existing International Law; in others, however, it has set forth what it apparently has considered International Law should be. It is not believed that any one of the projects could be accepted in the form in which it has been presented. Most of them contain subjects which are either outside the realm of International Law or on which the practice of Nations has not been sufficiently uniform as to warrant the conclusion that it has crystallized into International Law. These have been specifically covered in the comments on the various Articles. While most of the projects afford a good working basis and, with certain changes, might be developed into an acceptable statement of existing International Law, it will be seen that considerable work will be required in order to render the drafts acceptable. It may well be that many of the objections pointed out in the attached memorandum can be cured in the deliberations of the Committee which may have the subject under consideration. It is doubted, however, whether a general conference, such as the Sixth Pan American Conference, will find it possible, with the large number of questions to be considered, to revise these drafts, without greatly prolonging its sessions, in such a way as to make them entirely acceptable.

¹⁵ *Foreign Relations*, 1927, vol. I, p. 364.

¹⁶ The 12 projects are set forth in *Report of the Delegates of the United States of America to the Sixth International Conference of American States*, p. 9.

¹⁷ Not printed.

It is not desired that the American delegates should show any disinclination to go forward with the codification of International Law, which has heretofore been supported by this Government, but rather that they should take the position that the magnitude and importance of the task would seem to require that the respective Governments be given the benefit of the views and criticisms, if any, of the Conference and that their revision and incorporation into treaty form be left to a Commission or Conference to be called at a later date.

Topics 1 and 2, Supplement (a)

During the course of its sessions there were presented to the International Commission of Jurists by certain Delegates a series of so-called "Propositions", which the Commission decided to submit to the Sixth International Conference of American States. The "Propositions" are printed on pages 2, 3 and 4 of the pamphlet in your possession entitled "International Commission of Jurists—Public International Law".

For your guidance in any discussion of these "Propositions" that may take place, there has been prepared a Memorandum (Appendix No. 8)¹⁸ which presents the views of this Government with respect to the several matters to which they relate.

Topics 1 and 2, Supplement (b)

Topic 2 of Article II, which includes consideration of "Methods for the Pacific Settlement of International Disputes", and Article IV, topic 9, page 1, the resolution of the Pan American Congress of Journalists, bring before the Conference the question of arbitration of international disputes. You will notice by analysis of the treaties made between various Central and South American countries that as a whole these countries have gone a long distance upon the question of arbitration. The question was brought up at Santiago during the Fifth Pan American Conference. Those countries generally were not willing to enter into a general arbitration treaty which was less broad than the ones they now have. In other words, they said this would be a step backward. The Department believes, however, that a proposition to arbitrate any claim of right susceptible of judicial decision by application of the principles of law or equity, that is, a legal right under well established principles of international law or a legal right under a treaty, might be acceptable to the principal Central and South American countries.

Manifestly, the United States cannot agree to arbitrate purely political questions involving its domestic policy or any question which is purely within the jurisdiction of the United States and which does not infringe the legal right of foreign countries or the citizens

¹⁸ Not printed.

thereof. I think it would be comparatively easy to draft a treaty which the United States could agree to and quite likely the Latin American countries would also agree to. It would be a step forward and, in my opinion, have great influence in Latin America. The main question is one of the construction of the Arbitral Tribunal. This has been discussed generally with Mr. Hughes. It would be better to have a panel chosen from the United States and the other members of the Latin American countries with some means of selecting a non-American arbitrator other than drawing by lot. Mr. Hughes made a very valuable suggestion—that if each country selected one or two arbitrators and they could not decide on a chairman or arbitrator, that he be a non-American and chosen by a special panel composed of members of The Hague Tribunal or some of them. I doubt very much if the Senate would ratify a treaty for arbitration unless the agreement for submission be submitted to the Senate. That has been the universal practice and I am convinced that it would have to be followed in this case.

MATTERS OF AN INTER-AMERICAN JURIDICAL NATURE

(Private International Law)

Topic 3.

One of the subjects on the agenda of the Sixth Pan American Conference is the codification of Private International Law. The Commission of Jurists which met in Rio de Janeiro in April, 1927, recommended for consideration by the forthcoming conference at Habana a projected code prepared by Dr. Bustamante, the Cuban delegate on the Commission of Jurists.

The Department attaches hereto a memorandum in which the provisions of the project are briefly analyzed and discussed (Appendix No. 7).¹⁹ It will be seen that there are fundamental reasons why the United States could not agree to a code in the form of this project.

The first and most important obstacle to the preparation of a satisfactory code of Private International Law results from the difference between the system of jurisprudence obtaining in the United States, which had its origin in the English Common Law, and that obtaining in other American countries, which had its origin in the Roman Civil Law. It will be seen that the project here in question is based primarily on the theory of the law of nationality, whereas the system in the United States is based on the theory of territorial law, the principle of which is that the law in force in the territory shall apply to all persons within the territorial jurisdiction regardless of their nationality. Many of the provisions of the project are entirely foreign to our legal system. Others are so at variance with the

¹⁹ Not printed.

principles of law established in this country as to render impossible their acceptance.

An additional reason why this Government could not subscribe to a code of this character is that a vast majority of the subjects covered are matters within the exclusive competency of the several States with which it would be contrary to the policy of the Federal Government to interfere. I have in mind such matters as birth, matrimony and divorce, paternity and filiation, adoption, guardianship, emancipation and majority, property and its various classifications, leases, annuities, partnerships, loans, bailments, contracts, questions of evidence and rules of procedure.

You can readily appreciate that any effort by the Federal Government to regulate such matters, except as an incident to the exercise of its powers under the Constitution, would give rise to the charge of encroachment upon the rights reserved to the several States. Some of the subjects such, for example, as nationality and naturalization, matters pertaining to public securities and commercial paper, transportation, insurance, bills of exchange, when they concern interstate or foreign commerce, also matters pertaining to ships and aircraft, offenses committed against the Government, extradition, bankruptcy, etc., are, of course, well within the purview of the powers of the Federal Government. Provisions of the project with respect to these subjects, however, are for the most part unacceptable to this Government because of the fact, as indicated above, that they are based primarily on the civil law which differs widely from the system of law to which we are accustomed.

The convention as a whole would be unacceptable to this Government. It will probably be found to be unacceptable to other countries represented at the conference. That there was by no means complete accord among the delegates on the Commission of Jurists is shown by the report (Appendix No. 5) of the American delegates,²⁰ from which it is understood that the project was approved provisionally in order that attempts at the codification of Private International Law should not prove abortive and the Sixth Pan American Conference fail to have before it for consideration any constructive project dealing with the subject.

You should take the position that while general principles governing some of the subjects covered by Dr. Bustamante's project might conceivably be evolved in subsequent conferences, in view of the magnitude and importance of the subjects and the great divergence between the laws of the different American States much careful thought will be required for the formulation of rules which would be generally satisfactory.

²⁰ *Foreign Relations*, 1927, vol. I, p. 369.

Topic 3(h). Commercial Arbitration.

The American Arbitration Association has recommended the proposal by the American Delegation of a resolution in the following terms:

“That the Member States of the Pan American Union recommend to their respective legislatures the enactment of a law which will make valid, enforceable and irrevocable, a provision in any written contract relating to commerce, to settle by arbitration any controversy arising thereafter out of such contract; and which will permit the award, upon its confirmation by the court, to be treated as a judgment in an action.”

Although definite progress is being made in some of the Latin-American Republics in the application of the principle of commercial arbitration—notably in Brazil, Mexico, Chile and Argentina—and the practice has had a steady but slow development in the United States, it is not believed that a resolution making obligatory the settlement by arbitration of any controversy arising out of any contract relating to commerce would find the delegates from many of the Latin-American States in a receptive mood.

Even in the United States it has required many years of educational activities to convince American business men of the value of enforceable commercial arbitration of the type mentioned, and there is still considerable disapproval on the part of many business men and attorneys as to the advisability of inserting such clauses making arbitration on disputed points enforceable and irrevocable. The proceedings and reports of the American Bar Association evidence two distinct schools of thought in that authoritative body with respect to this matter.

It is not believed that business psychology, trade customs and legal systems in Latin-America can be readily and suddenly adapted to the theory of commercial arbitration contained in the United States Arbitration Act (Appendix No. 9)²¹ which, together with the statutes in New York and New Jersey, as well as some other States marks the most advanced status of commercial arbitration in this country, and it is felt that any movement to bring about a more general use of arbitration in the Latin-American States should be effected through educational and voluntary methods.

Any endeavor by the American Delegation to have such a resolution adopted might be considered by certain Latin-American States as an attempt to force legislation upon them, and although such a resolution would be in keeping with recent practice in the United States, you are directed, should its presentation to the Conference be deemed advisable, to bring about its introduction by a delegation of some other State.

²¹ Not printed.

Topic 3 (j). Subject: Organization and Regulation of the International Service of Checks and Postal Money Orders.

[Instructions on this subject are omitted.]

Topic 4. Frontier Police.

It is understood that this subject has been included in the agenda of the Conference at the instance of the Argentine Government, and that the discussion may follow the lines of the generalization of inter-American frontier agreements, such as the Argentine-Chilean and Argentine-Bolivian treaties of 1919.

It is the view of this Government that this question is primarily regional in that conditions along the various frontiers are not alike and hence must be met in accordance with the peculiar needs of each situation. This Government, therefore, feels that the end sought could best be obtained through separate conventions between the various bordering States rather than by a general agreement of all the American nations.

The United States would be affected only in so far as the policing of the frontier between this country and Mexico, and the boundary between the Canal Zone and the Republic of Panama are concerned. It is not considered desirable to enter into any arrangements with Mexico, or into any discussion with the Mexican delegates looking to the conclusion of an agreement on the subject of frontier police at this time. The so-called Smuggling Treaty with Mexico was recently allowed to lapse at the instance of the United States Government.²²

The boundary between the Canal Zone and the Republic of Panama is adequately policed, and satisfactory arrangements and understanding providing for cooperation between the police of the Zone and of the Republic already exist.

ARTICLE III

PROBLEMS OF COMMUNICATIONS

Topic 1. Consideration of the results of the work of the inter-American Commission on Commercial Aviation, provided for by resolution of the Fifth International Conference of American States.

In compliance with the resolution of the Fifth Conference, the Inter-American Commission on Commercial Aviation met at Washington in May, 1927, and approved certain conclusions and resolutions which were included in the Final Act of the Commission. The Governing Board of the Pan American Union then formulated a Project of Convention on Commercial Aviation, based on the results of the aforesaid Final Act, which is to be submitted for the consideration of

²² See *Foreign Relations*, 1927, vol. III, pp. 230 ff.

the Sixth International Conference of American States. Copies of the Final Act of the Inter-American Commercial Aviation Commission, and the Project of Convention on Commercial Aviation are attached to the files of the Delegation. (Appendices Nos. 12 and 13).²³

It is highly important that this convention shall safeguard certain special arrangements which the Government of the United States already has concluded, or may in the future conclude, with other States and you are therefore directed to endeavor to have Article 31 of the Project of Convention on Commercial Aviation amended to read as follows:

Article 31

The right of any of the contracting States to enter into any convention or special agreement with any other State or States concerning international aerial navigation is recognized, so long as such convention or special agreement shall not impair the rights or obligations of any of the States party to this Convention, acquired or imposed herein; provided however that prohibited areas within their respective territories, and regulations pertaining thereto, may be agreed upon by two or more States for military reasons or in the interest of public safety. Such agreements, and all regulations pursuant thereto, shall be subject to the same conditions as those set forth in Article 5 of this Convention with respect to prohibited areas within the territory of a particular State.

While the remainder of the Convention on Commercial Aviation in its present form meets with the approval of the United States Government, nevertheless it is desired that you advance the following suggestions as being calculated to clarify and improve the text and prevent misunderstandings:

1. It is suggested that Article 3 be changed to read as follows:

“Private aircraft shall be deemed to be all classes of aircraft with the following exceptions:

“*a.* Military aircraft, which embraces every aircraft owned, controlled, or operated by a contracting state in connection with its military or naval service thereof, or detailed for that purpose by competent military or naval authority.

“*b.* Aircraft owned, controlled or operated by a contracting state in connection with the administration of postal, customs, police, forestry, or other governmental services.”

It is not intended that you shall press for this change in Article 3 should you find that it encounters any serious opposition.

2. It is suggested that the words “signal of distress” be substituted for the words “danger signal” in Article 6 and that the nations signatory to this Convention signify their intention of following the system of signals of distress agreed upon in the Inter-

²³ Not printed.

national Convention relating to the regulation of aerial navigation signed at Paris on October 13, 1919 (Appendix No. 14).²⁴

3. It is suggested that the words "and into" be inserted between the words "above" and "their" in Article 7.

4. You will suggest the addition to Article 12 of the following sentence:

"After a State has filed a copy of such registrations it shall thereafter file monthly with every other State party to this Convention and with the Pan American Union, a copy of all new registrations containing all the information referred to in Articles 8 and 12 of this Convention and any cancellations of registrations made during the period covered."

5. It is suggested that the last three lines of Article 15 of the Convention beginning with the words "Subject, however" be deleted.

6. It is suggested that the words "State authorities" in Article 19, paragraph 4, (line 5) be changed to read "customs and immigration authorities."

7. It is suggested that the word "wholly" be inserted between the words "operations" and "within" in Article 23.

8. It is suggested that the following reading be substituted for Article 27:

"The aircraft of all States shall have the right in cases of danger to all possible aid."

9. It is suggested that the following paragraphs be added to Article 32:

"Each contracting State shall exchange with every other contracting State within three months after the date of ratification of this Convention copies of its air traffic rules and requirements as to competency for aircraft commanders, pilots, engineers, and other members of the operating crew, and the requirements for airworthiness of aircraft intended to engage in international commerce.

"Each contracting State shall deposit with every other State party to this Convention and with the Pan American Union three months prior to the date proposed for their enforcement any additions to or amendments of the regulations referred to in the last preceding paragraph."

10. It is suggested that it would be beneficial if a provision could be included in the Convention giving the states, dominions and colonies of this hemisphere, not members of the Pan American Union, the privilege of adhering to this Convention if they should so desire.

11. It will be found that Articles 32, 33, 35 and 36, providing that the Pan American Union shall cooperate with the Governments of the

²⁴ For text of treaty, see Malloy, *Treaties*, 1910-1923, vol. III, p. 3768.

contracting States, shall receive the ratifications and retain them in its archives, and shall give notice of the adherence or denunciation by one State to the other signatory States, grant to the Pan American Union a political character which it is not thought that such an organization should enjoy. This is especially true of Article XXXII. In this connection you are referred to your instructions in connection with the Project of Convention on the Pan American Union. The question of the participation of the Pan American Union provided for in this Convention will be determined by the manner in which the Convention organizing the Pan American Union is finally approved by the Sixth International Conference. Should no changes be made in the Convention organizing the Pan American Union none will be needed with respect to this feature of the Convention on Commercial Aviation, but should the sections of the former Convention authorizing the Pan American Union to act as custodian of the originals of diplomatic instruments not be approved, changes in Articles 33, 35, and 36 of the Convention on Commercial Aviation will be necessary.

Inasmuch as the resolutions and conclusions of the Inter-American Commercial Aviation Commission were not reached without some controversy between the delegates of the different nations represented, it is highly probable that the Convention will not be adopted at Habana without reopening some of the questions which were debated by the Commission in Washington last May.

With the exception of Article 31, which it is desired shall be amended in the manner suggested, you are authorized to approve of the convention on commercial aviation either in its present form or with any or all of the suggested changes specified above, but in the event that any further alterations are proposed you should request time to communicate with your Government for instructions before the question is put to a vote.

It is needless to remind you of the importance to this country of operating under a satisfactory international convention regarding Commercial Aviation; and of the necessity for taking especial care that this country is not compelled under any international convention to sanction procedure and practices which might jeopardize the safety of the Panama Canal.

Topic 2. Regulation of international automotive traffic.

Automotive traffic in the United States is subject to regulation by the States and not by the Federal Government. The American delegation should give full consideration to this fact before taking or participating in any action on this subject. Any efforts to secure uniformity of regulation of international automotive traffic or the elimination of undesirable difficulties or formalities in connection there-

with should nevertheless be considered as a laudable endeavor and receive the cordial support of the American delegation. However, such support must necessarily be limited to that consistent with the restrictions imposed upon participation in any final action taken by the Conference.

The United States Government would view with pleasure, as representing the views of the Conference with regard to this subject, the adoption of the pertinent portions of the report of the Highway Transport Committee of the American Section of the International Chamber of Commerce, as revised for use at the meeting of the International Chamber of Commerce in Stockholm in June 1927 and enclosed as Appendix No. 15 to these instructions.²⁵ Attention is directed to pages 14, 15 and 16 of the report which contain a discussion of the principles of highway finance, and to pages 43, 44 and 45 containing various recommendations with respect to traffic rules and regulations.

Topic 3. Means for facilitating the development of fluvial intercommunication between the nations of America.

[Instructions on this subject are omitted.]

Topic 4 (a). International regulation of railway traffic.

[Instructions on this subject are omitted.]

Topic 4 (b). Consideration of the report of the Pan American Railway Committee.

As the result of a resolution of the Fifth International Conference of American States the Pan American Railway Committee was constituted by the governing board of the Pan American Union. This Committee at its several meetings considered various projects and after an exchange of views adopted the following resolution:

"That the project of Mr. Briano and the suggestion of Mr. Verne L. Havens already presented, as well as those which may be presented hereafter, be submitted to the consideration of the American Governments.

"That the countries of America be asked to indicate the modifications which they consider desirable to make in the proposed route through their respective territories.

"That the interested countries indicate the interior ports or cities through which they desire the Pan American Railway to pass, so that the exploitation of this line may be carried out in relation to the navigable rivers.

"That each country be asked to indicate the approximate route of the branch lines to connect with the proposed trunk lines.

"That each country indicate whether it is willing to carry out with its means and resources the work of exploration and the direct sur-

²⁵ Not printed.

veys, or surveys by means of aero-photography which may be necessary, and that they specify the time at which they can send this to the Central Committee.

"That each country be asked to indicate the form of financing which appears most desirable with respect to that portion of the line included within its borders, in order that the road may be constructed in the shortest possible time."

As the subjects of this resolution are limited in that the countries of America are called upon merely to give consideration to said subjects it is desired that you approve said resolution and recommend that the participating States use their best efforts to further the work of the Pan American Railway Committee.

Topic 5. Organization of a Technical Commission to Study and Recommend the Most Effective Means for the Establishment of Steamship Lines to Connect the Countries of America and to Recommend Measures for the Elimination of all Unnecessary Port Formalities.

In the past ten years there has been a very gratifying improvement in ocean transportation facilities between the countries of the western hemisphere, due in large measure to the necessities arising out of the increased volume of trade carried on between those countries. Statistical data on this subject appears in the foreign section of volume 2 of the 1927 Commerce Yearbook. This is now in the press but will be made available to the Delegation.

The question of improved ocean transportation and that of simplification of port formalities are matters that have been discussed at previous conferences. However, a technical commission, properly organized, might submit a more concise and practical presentation of the problems that are involved than has been the case heretofore. As further improvement is desired in this field you will manifest the interest felt by the United States in this subject and endorse any deserving project put before the conference with the view to increasing and improving steamship traffic.

Topic 6. Consideration of the results of the Pan American Highway Conference, which met at Buenos Aires in October, 1925, in compliance with a resolution of the Fifth International Conference of American States.

The instructions relative to Topic 2 of Article III apply also to this Topic.

Topic 7. Consideration of the Results of the Inter-American Electrical Communications Conference, which met at Mexico City in Compliance with a Resolution of the Fifth International Conference of American States.

[Here follows a résumé of the proceedings of the Electrical Communications Conference; a similar résumé is printed in *Bulletin of*

the Pan American Union (Washington, Government Printing Office, 1925), vol. LVIII, p. 861.]

It is desired that you shall indicate that you deem it appropriate to treat the work accomplished at the Conference at Mexico City as preparation for the International Radiotelegraph Conference held at Washington in 1927, and also that you shall endeavor to bring about the adoption of a resolution by the Sixth International Conference of American States urging the several governments to ratify at the earliest possible date the International Radiotelegraph Convention and Regulations signed at Washington on November 25, 1927.²⁶

ARTICLE IV

INTELLECTUAL COOPERATION

Topic 1. Establishment of a Pan American geographical institute which shall serve as a center of coordination, distribution and dissemination of geographical studies in the American States and as an organ of cooperation between the geographical institutes of America for facilitating the study of boundary questions between the American nations.

In connection with the establishment of such an institute careful consideration should be given to the complications which would be encountered in the many existing boundary disputes between the Latin American nations, which would doubtless render it difficult for the scientists of Latin America to enter into and carry out any cooperative plan because of political considerations which would have to be taken into account. At the present time there are no geographical institutions in America making a special study of boundary questions between the American nations except the American Geographical Society, which has long specialized in the subject and continues to do so in connection with its program of Hispanic-American research, now in its seventh year, and having to do with the creation of a great map of Hispanic-America on a scale of 1:1,000,000, to be published in 100 sheets. Since this society is in active communication with all other geographic societies throughout the world there is nothing lacking in the way of cooperation under existing arrangements.

It is desired that the American delegates should adopt a neutral though friendly position towards the plan provided for in this item of the agenda, making no commitments or offers in connection with it, and being especially careful to say nothing in connection with the boundary disputes or political considerations which might give offence to other nations. If a workable plan for the establishment

²⁶ *Foreign Relations*, 1927, vol. I, p. 288.

of such an institute results from the labors of the Conference, it will then be time for the United States Government to consider to what extent it may desire to participate in the work of that institute.

Topic 2. Recommendation to the countries of America that in their legislation they levy a minimum duty on the importation of books and minimum postal rates on books and periodicals.

This item contemplates changes in the tariff which can only be accomplished by legislative action. You should not oppose, however, the adoption of any reasonable resolutions which can properly be submitted to the United States Congress for such action as that body may desire to take.

Topic 3. Recommendation to the countries, Members of the Union, that have not yet done so, to publish geodetic, geological, agricultural maps, etc., which will give an idea of their natural resources, possibilities of development, and also of their means of communication.

This proposal differs from that in Article IV, Topic 1, in that it depends upon the initiative of each country and not upon cooperation between different countries. In view of the fact that the material referred to in this item is either non-existent or very limited for most of the countries concerned it would seem advisable that such a recommendation should be supported by the American delegates and favorably acted upon by the Conference. Better maps of Latin American nations along the lines indicated should tend to promote a more intelligent understanding of those countries among themselves and in the United States.

The Department of Agriculture of the United States is especially interested in the matter of soil mapping and a proposed soil map of the world which the Fifth Commission of the International Society of Soil Science has it in mind to undertake.

Topic 4. Revision of the Convention on Intellectual Property signed at Buenos Aires (1910).

According to the Department's information, this Convention has been ratified by the United States, Brazil, Costa Rica, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Nicaragua, Panama, Paraguay and Uruguay. It was signed but not ratified by Argentina, Chile, Colombia, Cuba, Mexico, Salvador and Venezuela. According to the Department's information Peru ratified the Convention but did not communicate the act of ratification to the Argentine Government as contemplated by Article XVI of the Convention.

Article II should be amended so as to include in the protected works such forms of property as motion picture films, musical records, and player piano rolls. Numerous instances have come to the Depart-

ment's attention of the pirating of property of this character of American producers. The unauthorized use of motion picture films is particularly prevalent. While it has been possible in some instances to procure protection of the American owners through the application of local police regulations, these measures have not in all instances proved successful. It is highly desirable that the protection procured by this Convention be extended to cover this class of property.

It is desirable that Article III of the Convention be revised so as to require that there be included in the statement indicating the reservation of the property right the name of the copyright proprietor, the country of origin or the country or countries of first or simultaneous publication and the year of first publication.

Article IV should be amended so as to include among the means of reproduction the right to dramatize, to make or cause to have made motion picture films, the right to public performance by means of the radio or any other means and the right to reproduce by any method.

Inasmuch as there are now thirteen countries which have accepted this Convention, it would be inadvisable to substitute a new Convention which might require several years for ratification. It would be preferable to conclude a separate convention in which any amendments agreed upon are made, which when ratified would be made a part of the Convention of 1910, the present Convention remaining in force as the fundamental agreement. This comment is applicable also to the Trade-Mark Convention.²⁷

Topic 5. Establishment of Scholarships and Fellowships.

In the United States Federal control of education does not exist, whereas in the Latin American States such Federal control exists and has made possible the conclusion among them of various international conventions concerning educational matters.

You will bear in mind the constitutional limits imposed upon this Government in regard to this subject, but you will not oppose any agreement which may be of benefit to the other American Republics, even though its provisions should make ultimate action upon it by this Government impossible.

The growth in recent years in the movement for the establishment of scholarships and fellowships in American institutions of learning for the benefit of Latin American students has been very gratifying, and you may support any practical plan looking to the further development of this means of promoting mutual, intellectual and social understanding. (See Appendix 23)²⁸

²⁷ *Foreign Relations*, 1923, vol. I, p. 297.

²⁸ Not printed.

Topic 6. Exchange of Professors and Students.

The same considerations apply with regard to this subject as to the preceding one regarding the establishment of scholarships and fellowships.

In addition, the matter of recognition of professional degrees is a matter controlled by the State governments and not one in which the Federal Government may interfere.

Topic 7. To recommend the establishment of special chairs, supported or subsidized by the government, for the study of the Spanish, English and Portuguese languages and of their respective literatures.

In the United States the establishment of special chairs for instruction in specific subjects is left to the private initiative of the various universities and colleges, which are not subsidized or supported by the federal government, although many of them receive pecuniary aid from state governments. In general it may be said that the Spanish language and literature is widely taught in the United States, and in most of the larger colleges courses in Portuguese are also available. In general it may be asserted that the United States has gone far along this line.

Naturally an increase in the study of the English language and its literature in the Latin American countries will be a distinct advantage in bringing about a more intimate knowledge of this country in Latin America and you should accordingly look with favor upon the adoption of such a resolution as is forecast in this item. As this contemplates a procedure requiring in the United States legislative action and an appropriation by Congress you will of course say nothing which might encourage the hope that it will be adopted in this country. In many of the Latin American countries which maintain a government department of public instruction it is possible that special chairs might be established and supported by the Government through an executive decree. This would not, of course be the case in this country.

Topic 8. To recommend the establishment in the Universities of the countries, members of the Pan American Union, of special chairs for the study of the commercial legislation of the American Republics.

In general it may be said that this is not a subject which lies within the scope of the United States Government, but you may lend such assistance as you may find possible during the discussion of this question.

Topic 9. Consideration of the results of the Pan American Congress of Journalists, which met at Washington in compliance with a resolution of the Fifth International Conference of American States.

A copy of the resolution of the First Pan American Congress of Journalists appears as Appendix No. 24.²⁹

In general these resolutions appear to be unobjectionable. However, Resolution 4, which reads as follows:

“Recommends the adoption of arbitration as a means of settling all disputes between the American Republics and with other nations, not only in case of political disagreements but in all those which in any way affect the interests of or harmony between the nations of the Western Hemisphere. It recommends that all the members of the Pan American Press not represented in this Congress adhere to this recommendation.”

appears to be broader in its scope than is appropriate for a Congress of this nature, and brings up a number of political questions which require very careful consideration. This subject should more properly be considered under Article II, Topics 2 and 3, and not in connection with a resolution of the First Pan American Congress of Journalists.

Resolution 15, which “Recommends that the Pan American Union extend the scope of its activities,” appears to be altogether too vague in its terms and subject to uncertain interpretations. This subject should more properly be considered in connection with Article I, Topic 1, on the organization of the Pan American Union.

If a motion is made formally to approve the resolutions of the First Pan American Congress of Journalists you should make an exception in the case of Resolution 15.

You may in your discretion propose to the Conference the desirability of holding further such congresses.

ARTICLE V

Topic 1. Uniformity of legislation on consular fees.

This subject has on several occasions been considered by Pan American as well as other conferences. There is attached to the files for your information a full memorandum and classified statements of consular fees collected by the United States in Latin America and by Latin American countries in the United States.²⁹

Uniformity of legislation on consular fees came up for discussion also at the Third Pan American Commercial Conference, held in Washington in 1927. That Conference recommended to the Governing Board of the Pan American Union that a Pan American Committee be created for the purpose of studying the simplification and standardization of consular procedure as to inter-American trade as far as that might be possible without interfering with the national interests of the respective governments. By a resolution adopted at a

²⁹ Not printed.

meeting of the Governing Board on June 6, 1927, the members of the Board were requested to recommend to their respective Governments the designation of representatives to serve upon a Pan American Committee and Monday, October 10, 1927, was designated as the date on which the Committee should convene in Washington. Among the subjects discussed by the Committee were that the consular fee be regarded as a service charge rather than as additional duty and that, pursuant to the recognized principle that the fee paid for certifying a shipping document constitutes a fee for a service rendered and should not represent a customs duty, consideration be given to the question of moderating and obtaining uniformity in the charges for the consular certification of such documents. . . .

. . . After further discussion the Commission adopted a resolution as follows:

"It is recommended that those countries represented in this conference decide that consular fees are to be considered as compensation for services rendered but not as an additional tax.

"The reduction of consular fees to the lowest possible point compatible with the necessities of each country is recommended until such time as a uniform scale of charges is reached."

In view of the history of the resolution finally adopted by the Commission and of the agreement of the Delegation of the United States to that resolution it appears that you should not attempt at the forthcoming Conference to advocate the adoption of principles which go beyond those agreed to by the Pan American Commission, unless after very careful preliminary consultations with the other Delegations it is convincingly shown that steps in advance of that position may successfully be advocated.

Topic 1, Supplement A. Pan American Commission on the Simplification and Standardization of Consular Procedure.

While the program of the Sixth International Conference of American States under the heading Article V, Topic 1, calls for consideration of the specific topic "Uniformity of Legislation on Consular Fees", it is contemplated that the results of the Pan American Commission on the Simplification and Standardization of Consular Procedure—as a general subject—likewise may be submitted to the Conference. In this event the following instruction is furnished for your guidance:

"The United States approves, with the exceptions hereinafter mentioned, of the Resolutions adopted by the Pan American Commission on the Simplification and Standardization of Consular Procedure, and it is desired that you discreetly lend your influence to secure approval by the Conference of the work of the Commission. How-

ever, it is not believed advisable that the United States Government should appear as the party most interested in the adoption of the Resolutions.

Resolution X as passed by the Commission declares that consular fees are to be considered as compensation for services rendered and not as an additional tax, and includes a recommendation for the reduction of consular fees to the lowest point compatible with the necessities of each country. While the United States would like to see this resolution strengthened into a specific declaration against the practice of the collection of consular invoice fees on the basis of a percentage of the value of the shipments, in view of the fact that two-thirds of the American Republics actually collect consular invoice fees on a percentage basis, the probability is apparent that the Conference would not in any case approve without considerable discussion any resolution looking to the abolishment of this practice. The United States is disposed to accept the resolution as presented by the Commission provided no satisfactory opportunity arises for its amendment without endangering the success of the Commission's work as an entirety. If an opportune occasion should arise, however, you may place the United States Government on record as being opposed to the system.

A reservation should be entered against that part of Resolution VI (c) which calls for the use of the metric system of weights and measures in consular invoices and makes all other systems subordinate thereto."

Topic 2. Conference of chambers of commerce, and as a part of its program, organization of an inter-American chamber of commerce.

The Department feels that any movement which will tend to draw commercial organizations together for the consideration and solution of international trade problems, and which will afford another opportunity of contact between the United States and the Latin American countries, should be encouraged. The United States is already a member of the International Chamber of Commerce whose permanent headquarters are in Paris, and maintains a national committee with an office in the Chamber of Commerce of the United States at Washington. Important commercial organizations in Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic and Guatemala hold membership in this international chamber, so the Sixth Pan American Conference might give thought to the existing International Chamber of Commerce in considering this matter.

Should a proposition be advanced for a Pan American Chamber of Commerce there would be no objection to adhering to such a resolution so long as provision was made for close cooperation between the International Chamber of Commerce and this proposed organization

through one of the existing Chambers of Commerce already a member of the International Chamber at Paris.

The attitude of the American Chamber of Commerce with respect to this question appears as Appendix 25.³¹

Topic 3. International Aspects of Immigration Problems.

The status of immigration as a question of purely domestic concern is one which appears to be generally admitted and is one which has been formally enunciated by the Government of the United States on numerous occasions. Moore's *Digest* refers to this question in the following terms (Vol. 4, page 151) :

"The power to regulate immigration is an incident of the sovereign right to expel or exclude objectionable aliens. The exercise of the power in a particular country is governed by the constitution and laws. In the United States it belongs to the national government as part of its power to regulate commerce."

Hyde defines it as follows (Volume 1, page 94.) :

"A State is acknowledged to enjoy the broadest right to regulate the admission of aliens to its territory. Declared Mr. Justice Gray in the course of the opinion of the Supreme Court in the case of *Nishimura Ekiu v. United States*:³²

"It is an accepted maxim of international law, that every sovereign nation has the power, as inherent in sovereignty, and essential to self-preservation, to forbid the entrance of foreigners within its dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe."

"The law of nations has not as yet forbidden a State to exercise largest discretion in establishing tests of the undesirability of aliens, and to that end, to enforce discriminations of its own devising. There is thus apparent a sharp distinction between the legal propriety and ultimate expediency of exclusion laws. A State may unwisely, although not unlawfully, exercise the full measure of its privilege."

These definitions are supported by numerous judicial decisions and official utterances on the part of this Government which may be found in Moore, Volume 4, pages 151-161 *et seq.*, and in Hyde, Volume 1, pages 94-101.

As long as immigration to this country was practically unlimited, this doctrine excited little comment, and the Immigration Act of 1917³³ providing qualitative tests for immigrants was regarded as a natural and normal expression of this attribute of sovereignty. However, with the passage of the Immigration Act of 1920³⁴ and more particularly with that of 1924³⁵ which provided a quantitative control of immigra-

³¹ Not printed.

³² 142 U. S. 651 (January 18, 1892).

³³ 39 Stat. 874.

³⁴ 41 Stat. 593, 981, 1008.

³⁵ 43 Stat. 153.

tion, it assumed a very vital importance, especially when it appeared that other nations in this hemisphere were considering following the example of the United States. It immediately became to the interest of emigration countries to endeavor to have immigration questions regarded as a matter of international concern and as a subject for international discussion.

The first serious effort to draw the United States into such discussions came in 1923 when Italy which was particularly affected by the United States policy of restricted immigration issued invitations for a general international conference on emigration and immigration to be held at Rome in 1924.³⁶ In accepting that invitation this Government stated in a memorandum sent to the Italian Embassy on May 10, 1923:³⁷

"In connection with any discussion of matters relating to immigration, in which representatives of this Government might participate, it has already been indicated that there would be necessarily certain limitations of such participation. The reception of immigrants within the United States is regarded wholly as a domestic matter, and the exclusive authority of Congress must be recognized. Consequently, when participating in a conference of the proposed nature, certain restrictions, obviously, would be incumbent upon any American delegates."

and this was repeated in a later note to the Italian Embassy, dated October 4, 1923,³⁸ following an exchange of letters between Mr. Hughes and President Coolidge, in which the latter stated, under date of August 24, 1923:

"Replying to your communication of August 22nd, relative to the invitation of the Italian Government to participate in a conference relative to immigration problems, I see no reason to vary the original intention of participating, on the understanding, of course, that such conference could not infringe on the province of the Congress."

and these views also found expression in a note addressed to the French Embassy, dated October 2, 1923,³⁹ discussing certain questions in connection with the Rome Conference:

"I beg to advise you that since the International Conference which is to take place in Rome—in which certain restrictions will be incumbent upon the American representatives due to the fact that the reception of immigrants within the United States is regarded wholly as a domestic matter in which the exclusive authority of Congress must be recognized—is to be a strictly technical one to exchange and clarify views on pertinent questions, this Government is unable to perceive the need for a preliminary conference."

Recognition of the sole authority of Congress in immigration matters was further evinced in the Department's instruction of December 26,

³⁶ See *Foreign Relations*, 1923, vol. I, pp. 115 ff.

³⁷ *Ibid.*, p. 117.

³⁸ Not printed.

1923, to the American delegates to the Rome Conference³⁹ who were warned that their designation in nowise authorized them to take any action committing the Government of the United States.

On May 31, 1924, at the final session of the Rome Conference, the American Chief Delegate, the Honorable E. J. Henning of the Department of Labor, took occasion to enter upon the record of the proceedings of the Conference a formal statement of the position of the United States which indicated very plainly that this Government regarded immigration as a purely domestic question.⁴⁰

Following the adjournment of the Rome Conference, a Committee of Control was formed to undertake the task of "preparing" the next conference on emigration and immigration which is to be held in Habana in March, 1928. The Italian Government invited this Government to name a representative to this Committee but the Department decided against such a course and authorized the American Ambassador in Rome, Mr. Fletcher, under date of May 19, 1925, to address the following note to the Italian Government :

"Matters relating to immigration have been so definitely regulated by the Congress of the United States, in particular by the Immigration Act of 1924, that it is impossible for this Government to signify its participation in an international conference on emigration and immigration until it has had opportunity to examine the program which is to be discussed.

"While this Government has noted with satisfaction the assurances of the Italian Government that the Committee of Control will confine itself to the same matters which were included in the program of the first conference, and that the conference will have the same technical character as the first, nevertheless it is the feeling of this Government that until a concrete program for discussion has been submitted for its scrutiny it will hardly be possible for it to determine whether or not any useful purpose could be served by its participation.

"Therefore until such a program has been submitted and until a definite decision has been reached with regard to the participation of this Government in the proposed 1927 conference, the Government of the United States feels that to name a representative to the Committee of Control, a privilege which is limited to the governments accepting the invitation to take part in the 1927 conference, would be a step open to misconstruction and inconsistent with the practice of this Government in such matters."

However, this note was not formally presented, although the Italian Government was apprised of its contents.

In the meantime Congress had actively asserted its authority over immigration matters and had passed the Immigration Act of 1924. This Act, as it will be recalled, involved the issue of Japanese exclusion which was made the subject of a brisk correspondence between the

³⁹ Not printed.

⁴⁰ *Conférence Internationale de l'Émigration et de l'Immigration—Rome, 15-31 Mai 1924* (Rome, Imprimerie de la Chambre des Députés), vol. II, p. 454.

Japanese Ambassador and Mr. Hughes.⁴¹ However, throughout this correspondence the United States consistently maintained, and Japan explicitly recognized, immigration control to be a purely domestic question, Japan basing her protests upon the ground of race discrimination. In signing the Act of 1924, President Coolidge issued a statement on May 26, 1924, reading as follows:

"In signing this bill, which in its main features I heartily approve, I regret the impossibility of severing from it the exclusion provision, which in the light of existing laws, affects especially the Japanese.

"I gladly recognize that the enactment of this provision does not imply any change in our sentiment of admiration and cordial friendship for the Japanese people, a sentiment which has had and will continue to have abundant manifestation.

"The bill rather expresses the determination of the Congress to exercise its prerogative in defining by legislation the control of immigration, instead of leaving it to international arrangements. It should be noted that the bill exempts from the exclusion provision Government officials, those coming to this country as tourists, or temporarily for business or pleasure, those in transit, seamen, those already resident here, and returning from temporary absences, professors, ministers of religion, students, and those who enter solely to carry on trade in pursuance of existing treaty provisions.

"But we have had for many years an understanding with Japan, by which the Japanese government has voluntarily undertaken to prevent the emigration of laborers to the United States, and in view of this historic relation and of the feeling which inspired it, it would have been much better in my judgment, and more effective in the actual control of immigration, if we had continued to invite that co-operation which Japan was ready to give and had thus avoided creating any ground for misapprehension by an unnecessary statutory enactment.

"That course would not have derogated from the authority of the Congress to deal with the question in any exigency requiring its action. There is scarcely any ground for disagreement as to the result we want, but this method of securing it is unnecessary and deplorable at this time.

"If the exclusion provision stood alone, I should disapprove it without hesitation, if sought in this way at this time. But this bill is a comprehensive measure dealing with the whole subject of immigration and setting up the necessary administrative machinery. The present quota act of 1921 will terminate on June 30 next. It is of great importance that a comprehensive measure should take its place and that the arrangements for its administration should be provided at once in order to avoid hardship and confusion.

"I must therefore consider the bill as a whole and the imperative need of the country for legislation of this general character. For this reason the bill is approved."

Recently occasion arose at the Assembly of the Interparliamentary Commercial Conference at Rio de Janeiro for the United States to reassert its position regarding immigration. Certain proposals ad-

⁴¹ See *Foreign Relations, 1924*, vol. II, pp. 333 ff.

anced by the Italian delegates regarding control of Italian emigrants on foreign soil impressed the South American delegates as threatening to infringe upon the sovereignty of their States and upon their exclusive control of immigration. For obvious reasons they looked to the United States to be the spokesman for the thesis of immigration as a matter of purely domestic concern. On September 9, 1927, Senator Robinson, who was attending the Conference at the request of Mr. Kellogg, addressed the Assembly as follows:

“It has seemed to us, in view of the difficulties of this question and of the well-known differences of opinion that exist among the nations represented here, that it is but just and appropriate to present a fair and short outline of the position of our country as we understand it.

“When the first Federal Census was taken in 1790, it disclosed in the then territory of the United States of North America a population of only 4,000,000. Our country opened wide its gates to immigrants from every land on earth. They came from the remotest parts of the world and entered into our citizenship and became supporters of our institutions; so that after the lapse of one hundred and twenty years, when the Census of 1920 was taken, the total population of the United States was disclosed to be more than 106,000,000—twenty-seven times the population disclosed by the preceding Census which I have already referred to. We found it necessary and desirable to partly close our gates against immigrants from other lands. This has been accomplished through legislation enacted by the Congress of the United States. We sympathize profoundly with the problems and difficulties of the great countries of the old world which are distressed and disturbed by conditions respecting over-population. We realize that in a measure they are in the situation of the father or the mother who witnesses a son or daughter depart from his home to take residence among strangers, and just as any fond parent follows his child with his prayers and his benedictions, his hopes and his aspirations, so the people of the countries in which immigrants have their origin quite naturally have a feeling and desire to follow them with their assurances of assistance and protection. But it seems to me, Mr. President, that it is not inappropriate here to make clear to this Conference what many of the Delegates already know has been the result of the experience of the United States of North America respecting this question. We understand that under the principles of international law as commonly and generally accepted, every nation has the right if it chooses to exercise its power to exclude immigrants or admitting them to define the conditions under which they shall or may be admitted, and we understand that this principle of law is in conflict with the right of the country of origin to control the destiny of the immigrant after he has taken his place in a foreign land among strangers.

“We therefore accept in the United States the doctrine that when one born under a flag finds it desirable to leave the home of his birth, the land of his nativity, to seek residence and citizenship under a new flag and in a strange land, that in doing so he necessarily submits himself to the authority of that flag and to the jurisdiction of the land

of his adoption. We cannot settle here the fundamental differences which I have referred to respecting the subject of immigration. They are deep-seated, but permit me to add before taking my seat, that as a necessary result from the doctrine of international law which I have tried to make clear and which is well recognized by most of you, it follows that the country in which the immigrant takes his abode has the right and owes the duty to protect him and to promote his advancement and best interests in common with the citizens of the country as distinguished from immigrants, and that the country of origin cannot claim, under international law as accepted generally by mankind, the right to control him after he has taken up his residence in a foreign land.

"This statement has been made not out of a desire to provoke controversy or to prolong the session of this conference. It has been made solely for the purpose of making clear to the Delegates the view point occupied by those who came here from the United States of North America. We are entirely content to have the convention take its action after hearing this statement."

A perusal of the foregoing leaves no doubt of the position of this Government that control of immigration must be regarded as a matter of purely domestic concern, representing as it does the exercise of a sovereign right and that the authority of Congress in immigration matters is exclusive.

Accordingly, you should in any discussion on international aspects of immigration problems, be careful to note any tendency to call this doctrine into question and should, if necessary, be prepared to combat such a tendency by clear and unequivocal statements based on the historic position of the United States. For use in this respect, there are enclosed (Appendices 26, 27, 28) ⁴² memoranda relating to the immigration policy and history of the United States, the Italian invitation to participate in the Conference on Immigration and Emigration in 1927, and a list of certain correspondence regarding immigration.

It is possible that during the course of the Conference it may seem to you to be desirable to avoid all discussion of this Topic. This might be effected by pointing out that immigration and emigration matters are to constitute the sole subject matter of the March Conference in Habana. In this connection, and for your confidential information it may be stated that while the United States has not yet accepted the invitation to attend that Conference it will in all likelihood participate, in which case the Department's instructions to the American Delegates will be based in essence upon the policy set forth above.

Topic 4. Revision of the conventions signed at Buenos Aires in 1910 and at Santiago, Chile, in 1923, with a view to formulating changes which shall assure uniform and effective protection for trade-marks in the States members of the Pan American Union.

⁴² Not printed.

[Detailed instructions on the proposed amendments to convention of 1923 are omitted.]

Topic 5. Consideration of the results of the Conference on Uniformity of Communication Statistics, which met at Lima in December, 1924, in compliance with a resolution of the Fifth International Conference of American States.

Topic 6. Consideration of the results of the Standardization Conference which met at Lima on December 23, 1924, in accordance with a resolution of the Fifth International Conference of American States and the conference which met at Washington in 1927.

The resolutions of the First and Second Standardization Conferences are primarily of interest to the Department of Commerce, which will be charged with making them effective if they are accepted and acted upon by this Government. The Department of Commerce has expressed its approval of these resolutions and has recommended that the American Delegation support them. (There is attached hereto as Appendix No. 30 a copy of a letter from the Department of Commerce, dated July 26, 1927 with reference to this point).⁴³

It is felt that the American Government can agree to the creation of the various committees contemplated in some of these resolutions since, while they are of an international character, they will, if they function at all, aim at encouraging and simplifying commerce between the United States and Latin America. In connection with the formal draft of the convention for the establishment of uniform specifications, however, it is provided that the High Contracting Parties bind themselves to support the national sections of the Inter-American High Commission with adequate personnel for carrying out the work with which it has been charged. Inasmuch as the Inter-American High Commission has never been established by a formal convention, and as the general subject of the usefulness of this organization has recently been under discussion, it does not seem desirable to assure its permanence by the adoption of a formal convention whereunder the High Contracting Parties bind themselves to support it.

It is desired that you shall point out that references to the Inter-American High Commission do not properly fall within the scope of this convention and that while there is no objection to charging the Commission with certain tasks by resolutions of the Conference, the High Contracting Parties cannot bind themselves by a convention to support an organization which has not yet been established by a convention. Consequently Article V of this convention should be stricken out and, if approved in substance by the Conference, be embodied in a separate resolution, and Article VI should be eliminated entirely and not acted upon in any way by the Conference.

⁴³ Not printed.

If the question of the organization of the Inter-American High Commission by a definite convention should be raised, it is desired that you shall state that this will require careful consideration and recommend that it be referred to the next International Conference of American States. This will provide an additional opportunity to study the value of the services rendered by the Inter-American High Commission and the manner in which it carries out the tasks assigned to it by the resolutions of the First and Second Standardization Conferences.

ARTICLE VI

SOCIAL PROBLEMS

Topic 1. Consideration of the action taken by the American States in complying with the recommendations of the Fifth International Conference of American States on the Pan American Maritime Sanitary Code.

This Code was presented to, and its ratification consented to and advised by the United States Senate and subsequently approved by the President of the United States under date of February 7 [*March 28*], 1925.⁴⁴ Up to the present time other countries have ratified this Code as follows: Cuba, June 16, 1925; Costa Rica, June 20, 1925; Peru, July 16, 1925; Chile, October 13, 1925; Nicaragua, December 18, 1925; Honduras, March 27, 1926.

The First Pan American Congress of American Directors of Health which convened in Washington, September 28, 29 and 30, 1926, gave further consideration to this Code and proposed several amendments of minor importance. These amendments were taken up and discussed at the meeting of the Eighth Pan American Sanitary Conference at Lima, Peru, in October of this year, a report concerning which is in the Delegation's files.

It is hoped that the Sixth Pan American Conference will urge those countries which have not as yet accepted this Code to do so. To this end the following resolution may be proposed by you:

"The Sixth International Conference of American States resolves:

"That provision having been agreed upon, ad referendum, for the withdrawal by any country, on one year's notice, from the obligations of the Pan American Sanitary Code, and believing that the Code offers the best solution for the further cooperation of the Health Departments of the Signatory Powers in the matter of the promotion of hygiene and sanitation and the prevention of the spread of contagious disease in international commerce, it is urged that those countries which have not yet approved this Code, should do so at their earliest convenience."

⁴⁴ For text of convention, signed Nov. 14, 1924, see *Foreign Relations*, 1924, vol. I, p. 266.

Topic 1, Supplement A.

If the other Delegations show an active and friendly interest in the discussion of the Pan American Sanitary Code, you are authorized to introduce the following resolution to the Conference. Its aim as appears in the preamble of the said resolution is the elimination of unnecessary delays to shipping in the ports of the Panama Canal.

WHEREAS, the Fifth International Conference of American States, held at Santiago, Chile, entrusted to the Pan American Sanitary Bureau the preparation of a Pan American Sanitary Code, and recommended its study, approval and adoption by the Seventh Pan American Sanitary Conference; and,

WHEREAS, the Seventh Pan American Sanitary Conference, composed of the duly accredited representatives of 18 of the American Governments, after careful study and consideration, adopted and signed the Pan American Sanitary Code, in the form of an ad referendum treaty, on November 14, 1924; and,

WHEREAS, the treaty has been ratified to date by the following governments:—United States, Cuba, Chile, Peru, Nicaragua, Honduras, Costa Rica and Salvador, and,

WHEREAS, the treaty provides an International Standard Form of Bill of Health, which was adopted as the standard form of Bill of Health that should be used by the signatory countries, and,

WHEREAS, the vessels that transit the Panama Canal are, at times, delayed through the necessity for obtaining either a Bill of Health, or a sanitary visa from the Consul of each country that is included in their itineraries, thereby causing delay, expense, and a tendency toward stagnation of traffic in the Canal and its terminal ports:

Now, therefore:

Be it resolved, by the Sixth International Conference of American States, to recommend to the Governments of the American States the adoption of such measures as may be necessary and appropriate for the several Governments to authorize the quarantine officers at their respective ports to accept from the Panama Canal Zone without Consular Visas the International Standard Form of Bill of Health prepared by The Panama Canal authorities in accordance with the provisions of the Pan American Sanitary Code, in lieu of Consular Bills of Health and Consular Sanitary Visas as now required, whenever after due investigation any of said Governments shall find that it does not have consular representation in the ports of the Panama Canal, as hereinafter defined; that is, it is found impracticable to maintain consular offices so easily accessible and with consular officers on duty during such hours that vessels can at all times without delay in transit, procure the immediate issuance of the aforesaid Bills of Health and Consular Sanitary Visas; and, that such immediate issuance is recognized as a requirement of the extraordinary needs of international commerce through the Panama Canal in conformity with the interests of all the Governments of the American States. The foregoing recommendation is adopted in view of the satisfactory information supplied to the Conference concerning the excellent sanitary conditions now existing and constantly maintained on the Panama Canal Zone and in the cities of Panama and Colon, and because

of the international obligation immediately to report the occurrence of disease, no sanitary menace can result.

Topic 2. Consideration of the action taken by the American States in complying with the Resolution on principles and procedure in public health administration, approved by the Fifth International Conference of American States at its session of April 16, 1923.

The Treasury Department of this Government has written to the Department of State stating that there have been no essential changes in the general plan of health administration in the United States since the date of the Fifth International Conference of American States when the above Resolution was passed. The following information contained in the same letter from the Treasury Department may be submitted by you to the Sixth Conference if the situation warrants it:

[The letter has been omitted.]

As a means of advancing the development of public hygiene as a profession, you are requested to submit the following resolution to the Conference:

"That it reiterate the recommendation of the Fifth Pan American Conference of American States with regard to the interchange of health officers, a program for the training of personnel, permanent tenure of office of persons employed in the more important position[s] of departments of health, and so forth, the recommendation having been expressed in the following terms:

"That each country be urged to consider a program which will include the following features:

"1. The full recognition by appropriate training, adequate salaries, security of positions and social esteem of the profession of public hygiene as a special career essential to the welfare of the nation.

"2. The establishment of courses of training for public health personnel, or the educating of selected individuals at the expense of the Government in institutions in other countries.

"3. The encouragement of visits of its health officers to other countries and the welcoming in return, of the representatives of the health organizations of other nations."

Topic 3. Consideration of the results of the Conference on Eugenics and Homoculture which will meet at Habana in 1927, in compliance with a resolution of the Fifth International Conference of American States.

As this Conference is not scheduled to meet until December, 1927, no instruction can be prepared.

Topic 4. Consideration of the results of the Conference of Directing Heads of Public Health Services, which was held at Washington in September, 1926, in compliance with a resolution of the Fifth International Conference of American States.

The First Conference of National Directors of Public Health of the American Republics met in the city of Washington in September, 1926. As a result of resolutions passed by this Conference, the Government of Peru has created a Permanent Commission for the Study and Eradication of Malaria; the Government of Ecuador is carrying out a rat flea survey in a number of Ecuadoran cities, and the reporting of communicable diseases received a new impetus. The Pan American Sanitary Bureau has expressed the hope that these reports will continue to improve.

The Conference of National Directors of Public Health likewise approved, for the consideration of the Eighth Pan American Sanitary Conference, the series of propositions, resolutions, and recommendations which are printed in the document issued by the Pan American Union entitled "Conclusions of the First Pan American Conference of National Directors of Public Health", enclosed herewith as Appendix No. 31.⁴⁵

The Eighth Pan American Sanitary Conference was held at Lima, Peru, in October 1927 and was participated in by delegates from the United States of America, whose report (Appendix No. 32) is enclosed herewith⁴⁵ together with the Final Act of the Eighth Pan American Sanitary Conference (Appendix No. 33).⁴⁵ The results of the Conference will be discussed at the Sixth International Conference of American States at Habana, and it is desired that with respect to this subject you shall be guided primarily by the counsel of your Technical Adviser, Dr. John D. Long.

Your especial attention is, however, invited to the resolution relative to the creation of Ministries of Health, and to the resolutions permitting the calling together of the Board of Directors and the creation of the position of Traveling Representative. With respect to the former, it is believed that the creation of a Ministry of Health is a matter of national rather than of international concern; and with respect to the latter, the approval of which presumably would entail larger appropriations toward the upkeep of the Pan American Sanitary Bureau, you should bear in mind the necessity for action by the Congress of the United States on all matters involving the expenditure of public funds.

Topic 5. Consideration of the action taken by the countries of America for the organization and development of national Red Cross Societies, and the results of the Pan American Red Cross Conference referred to in the resolution adopted by the Fifth International Conference of American States on April 12, 1923.

⁴⁵ Not printed.

In conformity with a resolution proposed by the American Delegates at the Fifth International Conference of American States, successful Pan American Red Cross Conferences were held at Buenos Aires in 1923 and at Washington in 1926. To the results of those conferences, contained in their Final Acts (Appendix No. 34),⁴⁶ you may lend your approval.

It is probable that one of the other nations represented at the Conference will present the following resolution approving of the Red Cross work:

“The Sixth International Conference of American States,

Notes with satisfaction that, in pursuance to a resolution of the Fifth International Conference of American States at Santiago, successful Pan-American Red Cross conferences have been held in Buenos Aires in 1923 and in Washington in 1926, under the auspices of the League of Red Cross Societies.

Expresses its satisfaction that the American Governments have uniformly taken action to accord the necessary recognition and support to their respective national Red Cross organizations,

And resolves:

1. to request the Pan American Union to continue its assistance in the development of the Red Cross movement in the Americas.

2. to invite the attention of the governments represented at the Conference to the importance of the program of the Red Cross in time of peace in the promotion of health, the prevention of disease and the mitigation of suffering from disaster or other cause, and to the advisability of according due recognition and support to their respective national Red Cross organizations in carrying out this program.

3. to approve the continuation of the series of Pan-American Red Cross conferences, and particularly the Third Conference, which has been invited to meet at Rio de Janeiro in 1930 or 1931.”

To this resolution you may also lend your support and approval.

ARTICLE VII

REPORTS ON TREATIES, CONVENTIONS, AND RESOLUTIONS

There is enclosed (as Appendix No. 35)⁴⁶ for your information a memorandum of the action that has been taken by this Government with respect to the one Treaty, the three Conventions, and the sixty-nine Resolutions effected at the Fifth International Conference of American States.

IN CONCLUSION:

The continuation and development of friendship, mutual understanding, and sympathy, among the nations of the Western Hem-

⁴⁶ Not printed.

isphere are the ends which the United States believes the Sixth International Conference of American States can further and it is hoped that you will use your best efforts toward the accomplishment of this purpose.

I am [etc.]

[File copy not signed]

[Appendix 1]

Special Political Memorandum

The past year has seen the development of a vigorous anti-American propaganda throughout Latin America based on charges of "imperialism" and characterized by violent criticism of the relations existing between the United States and Mexico and the American policy in Nicaragua. For the most part the Latin American Governments have refrained from participating in this propaganda, which has been carried on by private individuals and private organizations created expressly for that purpose, and in the press. Nevertheless, it is possible that an effort may be made by some delegates to the Sixth Pan American Conference to bring up controversial matters which the United States would not consider appropriate for a gathering of this nature, and it is not improbable that in the course of their remarks certain delegates may attack the policy of the United States Government towards Latin America with special reference to its relations with Mexico, Nicaragua, Panama and Haiti. Every effort should be made to have the topics discussed at the Conference confined to those on the pre-arranged agenda, or such additional topics as do not involve any discussion or criticisms of the foreign policy of this or any other country.

At the Santiago Conference in 1923 certain delegates brought up subjects of a controversial nature on their own responsibility, without instructions from their governments. Upon being informed of the actions of their delegates those governments promptly repudiated them. It is hoped that nothing of this sort will occur at Habana, but the possibility and the way it was met in 1923 should be borne in mind.

It is possible that an effort may be made to suggest the formation of an American League of Nations or a League of Latin American Nations, or the creation of an American Permanent International Court, projects upon which the United States would not look with sympathy. Detailed instructions for your guidance in the event that all or any of these topics are brought up for discussion are included hereafter.

The United States can not enter into any discussion at Habana of matters of purely domestic concern, such as its immigration and tariff acts, or of its foreign policy or relations with individual countries, since these are considered to be subjects which can properly be discussed only between the nations concerned and not in an open forum of nations not directly affected.

The United States desires to assist the Latin American countries in every possible way acceptable to and desired by them, but it does not desire to urge its assistance upon them [nor is it contemplated that the independence of any of them shall be in the slightest degree infringed].⁴⁸ The policy of the United States is one of mutually beneficial cooperation and it is of paramount importance that the spirit of this policy be manifested in your attitude and action at the Conference. [To this end the United States will place at the disposal of the Conference all the information in its possession drawn from the wide experience and great achievement of this country, to assist the Latin American nations in solving their various problems.]⁴⁸ In general, your attitude should be to favor the free expression of views by the delegates of the various countries and to support only those proposals which are of common interest and which merit the unanimous approval of the American republics.

During the time that has elapsed since the close of the Fifth Pan American Conference there have been many developments of vital importance for Pan Americanism, and while the relations between the Latin American Republics and the United States and among these republics themselves have not undergone any extreme changes, nevertheless this period has been marked by the development of certain tendencies which are worthy of notice.

[Detailed information concerning Mexico, Central American Treaties, Honduras, Nicaragua, Tacna-Arica, Haiti, Dominican Republic, Colombia-Peru, Ecuador, and Argentina has been omitted.]

[Appendix 1a]

Supplementary Matters Not on the Agenda But Which May Be Proposed for Consideration at the Conference Under Article 24 of the Regulations

PAN AMERICAN LEAGUE OF NATIONS

At the Fifth Conference at Santiago in 1923 the agenda contained an item: "Consideration of measures tending toward closer association of the Republics of the American Continent with a view to promoting common interests."

This topic was proposed by Uruguay and was intended to provide the basis for discussion of a project to create an association of American States in this hemisphere similar to the existing League of Nations. The Uruguayan delegation at Santiago during the early sessions of the Conference let it be known that it was not their intention to press the

⁴⁸ Brackets appear in original document.

consideration of this topic. A resolution was subsequently passed by the Conference which read as follows:

“Resolved:

“1. To entrust to the governing board of the Pan American Union the special task of studying the bases which may be proposed by one or more of the Governments of the Republics of this continent to make closer the association between said Republics with the object of promoting the common interests of all.

“2. To entrust to the same governing board the special task of studying the bases which may be proposed by one or more of the Governments of the Republics of America relative to the manner of making effective the solidarity of the collective interests of the American Continent.”

The Pan American Union inquired of the States, members of the Union, whether there were any proposals relative to these subjects which they desired to submit to the governing board of the Pan American Union for study as provided by the resolution. No proposals were received by the Union, and therefore no action was taken in accordance with this resolution.

It is improbable that the Uruguayan plan for the creation of an association of American nations will be brought up at the Sixth Pan American Conference in the form in which it was to have been proposed at Santiago. Nevertheless, it is not improbable that an effort will be made to promote discussion of this subject and some more or less detailed project may be submitted to the Conference. The United States would not view with favor the inclusion of this subject in the agenda and should such a proposal be made, you are instructed to vote against it. However, if it should be included by a two-thirds vote you will be guided in any discussion which results by the following views of the Department, included in the instructions to the American delegates to the Fifth Conference:

“A proposal to establish an American League of Nations with a formal organization and specific guaranties would probably encounter in this country difficulties similar to those that were met when the proposal to participate in the League of Nations was submitted. Even if it were possible to obtain an agreement which would embody such a plan, it is not probable that it would be ratified by this Government.

“On the other hand, the Government of the United States is most hospitable to the consideration of measures tending to the maintenance of peace and stability in Latin America and ensuring a basis for beneficent cooperation. This end can be attained most readily and without engendering a futile controversy over a proposal for an organization similar to that of the League of Nations, if attention be directed to the fundamental purposes of international institutions of the sort contemplated. These may be said to be:

“First. Judicial settlement of justiciable disputes;

“Second. Appropriate means of conciliation.

“Third. Conference.

"With respect to the first, it is not believed to be desirable to establish an American Permanent International Court. There would seem to be no reason why a permanent organization of this sort should be established here to rival the Permanent Court of International Justice at The Hague, and the difficulties in establishing, in view of the relations of the Latin American States, a satisfactory method of selecting the judges of an American Permanent Court would be very great. What would seem to be needed, in order to promote judicial settlement of international controversies in this hemisphere is an improved plan for arbitral settlements. In this way controversies of which disposition could be more advantageously made by an American tribunal could be referred to a tribunal established for the purpose in accordance with the accepted principles of arbitral procedure. It should be remembered in this connection that five of the Latin American Republics, to wit, the Republics of Costa Rica, Guatemala, Honduras, Nicaragua and El Salvador, have at Washington concluded a Convention for the establishment of a Central American Tribunal.⁵⁰ The plan of this Convention, a copy of which is attached to the files of the delegation, should be carefully studied and it may be that a similar plan would meet the requirements of judicial settlement of controversies between all the Latin American States. According to this plan a permanent list of jurists, with prescribed qualifications, is to be established from which the Tribunal may be constituted as provided in the Convention when a controversy has not been settled through diplomatic agencies or some other method of arbitral or judicial determination has not been approved. If measures are taken to add to existing facilities an appropriate plan for the arbitration of justiciable controversies, the first object in view will be suitably met.

"The mechanism of conciliation can best be provided, it is believed, through a Commission of Inquiry. The historic relation of the Latin American Republics should be borne in mind and too rigid a scheme for conciliatory measures or mediation should not be attempted. Again reference may be made to the convention signed by the representatives of the Central American Republics at the Washington Conference for the establishment of Commissions of Inquiry. The United States is a signatory to this Convention.⁵¹ Provision is made for the appointment of the nationals of the Contracting Powers to form a permanent list of Commissioners of Inquiry. This Convention is in general a unification of the Conventions which the Government of the United States concluded with the Central American Governments in 1913 and 1914,⁵² and the purpose is to facilitate settlement of the dispute by an impartial inquiry into the facts. It is also provided that as soon as the Commission of Inquiry is organized it shall at the request of any of the parties to the dispute have the right to fix the status in which the parties must remain in order that the conditions may

⁵⁰ *Conference on Central American Affairs, Washington, December 4, 1922-February 7, 1923* (Washington, Government Printing Office, 1923), p. 296.

⁵¹ *Foreign Relations*, 1923, vol. 1, p. 321.

⁵² Treaties for the advancement of the general peace were signed with Costa Rica, Feb. 13, 1914 (*Foreign Relations*, 1914, p. 171); with Guatemala, Sept. 20, 1913 (*ibid.*, p. 331); with Honduras, Nov. 3, 1913 (*ibid.*, 1916, p. 389). Treaties were also signed with Nicaragua, Dec. 17, 1913, and with Salvador, Aug. 7, 1913, but never went into force.

not be aggravated and matters may remain in the same state pending the rendering of the report by the Commission.

“With respect to the third object, that of Conference, it would seem that the continuance of the present plan of holding Pan American Conferences would adequately afford the desired opportunities for interchanges of views and the discussion of matters of common interest. There is no special advantage in creating machinery which is either unnecessary or too elaborate. It is a mistake to attempt to commit nations in advance with respect to their action in unknown contingencies, aside from disputes of a justiciable nature, as such attempts either are abortive or lead to disappointment, but it is highly important that every facility for conference should be provided.

“The more important need is the arrangement for cooperation in technical services, for the coordination of expert investigation, for facilities for negotiations leading to uniformity of action where that is desirable, and for the promotion of the vital interests of health and education. This Government strongly favors any arrangements which may be effective to these ends.”

PROHIBITION OF THE SALE OR EXPORT OF ARMS AND MUNITIONS OF WAR AND PREVENTION OF THE TRANSIT OF ARMS AND MUNITIONS WHICH ARE NOT DESTINED FOR GOVERNMENTS

Such proposals would require legislation by the Congress to make them effective (and it is doubtful whether such legislation could be obtained). This Government would undoubtedly desire to discourage the exportation of arms for the purpose of fomenting revolution but it is doubtful if legislation could be enacted in this country going beyond the existing provisions of law which enable the Executive in an appropriate case to declare an embargo. Whatever may be said with respect to the merits of such proposals it is important that this Government should not be in a position of entering into agreements which it has reason to believe it would have difficulty in making effective through the necessary legislative action.

AN AGREEMENT TO RESPECT THE TERRITORIAL AND POLITICAL INTEGRITY OF THE LATIN AMERICAN NATIONS

Such an obligation would be quite acceptable to this Government, which has frequently given public and emphatic assurances that it does not covet the territory of any other nation. (Any obligation, however, not to intervene under any circumstances in the internal affairs of another country or not to go to war until after the pronouncement of an arbitral award, while commendable so far as the general purpose in view is concerned, would be likely to encounter opposition in this country as inconsistent with the constitutional authority of Congress and thus would give rise to unnecessary controversy. The object can be obtained, it is believed, by the adoption of

suggestions already made for an Arbitral Tribunal and Commissions of Inquiry.)

This Government could not, of course, undertake to limit or bind its action in future unknown contingencies regarding the measure of protection which it might deem it incumbent upon it to exert on behalf of American citizens and property endangered by revolution or other civil turmoil in a foreign country.

You will of course understand that should this Government be obliged thus to afford protection to its nationals abroad its action would, as in the past, be limited to this object alone. When this object has been obtained and the danger is removed, the forces of the United States would of course be withdrawn. This has been the traditional policy of the United States.

DEFINITION OF THE MONROE DOCTRINE

It is not the desire of this Government that the Monroe Doctrine should be discussed at the Conference. The views of the Department as set forth for the instruction of the delegates to the Fifth Conference and repeated here for your guidance, are as follows:

In the view of this Government, that Doctrine has no place in the discussions of the Conference as it is essentially a national policy of the United States. It is not a part of international law nor is it a "regional understanding",—to refer to the inept phrase used in the Covenant of the League of Nations. While conditions have changed, and the attitude of the non-American Powers does not at this time give rise to apprehension with respect to aggression on their part as against at least the stronger Latin American Republics, still the Monroe Doctrine, however infrequent or limited may be the necessity of its application, should be maintained in its integrity and no action should be countenanced by this Government which would in the slightest degree impair its efficacy.

Note may be taken of the content of this Doctrine. Properly understood, it is opposed (*a*) to any non-American action encroaching upon the political independence of American States under any guise, and (*b*) any acquisition by any non-American Power of any territorial control over any American soil by any process whatever. It may be observed that the United States is uninfluenced even by the willingness or desire of any American State to yield any transfer of its territory or to submit to any form of political control or influence of a non-American State. In maintaining its position, the United States has been governed primarily by its own interests, involving its conception of what was essential to its security and its distinctive position in this hemisphere. Its unselfish and friendly regard for its American neighbors has had a potent influence and should never fail of recognition in an estimate of our traditional

policy, but the controlling consideration has been one of national interest.

In maintaining and applying the Monroe Doctrine the United States has commonly avoided concerted action with other States, especially European States. Nor has the Government of the United States been disposed to enter into an arrangement with States of this hemisphere for the purpose of safeguarding them against conduct which would be regarded by this Government as in violation of the Monroe Doctrine. The essential character of the Doctrine itself has led to the taking of this attitude which it is believed should be maintained. The nature of the Doctrine should not be altered, its strength weakened or its effect diminished by any concert.

On the other hand, it should always be remembered that the Monroe Doctrine thus fully maintained as a national policy of the United States, carries with it no suggestion which threatens in any proper sense the just independence, or the political integrity of the American States; much less does it involve any thought of action inimical to their security or interest. On the contrary, it has received a constantly widening recognition on the part of the Latin American peoples, as a bulwark of their independence, safety and progress. So far as the Doctrine may be deemed to impinge upon their freedom in submitting to the control or influence of non-American States, it constitutes a safeguard of their liberty and security. The United States has not, and does not intend to use, this national policy for the purpose of conserving any other national interest than its own essential security. The United States seeks no territory; it does not seek to establish any state of tutelage with respect to any American Republic; it has no desire to aggrandize itself at the expense of its Latin American neighbors or to promote selfish interests in diminution of their own. It earnestly desires a common prosperity.

There is thus nothing in the Monroe Doctrine which is opposed to Pan American cooperation. It establishes the necessary and most hopeful bases of that cooperation. The United States seeks to promote its commerce with Latin American States and to aid in their development to the end that all may have their appropriate share in these mutually helpful efforts in the advancement of civilization. During the visit of Secretary of State Hughes to Brazil,⁵³ and on the occasion of the dedication of the site for the American Centennial Monument at Rio de Janeiro, on September 8, 1922, the view[s] of this Government were thus expressed:

“We shall also be glad to have this monument associated in the thought of our friends with a true appraisalment of our North Ameri-

⁵³ See *Foreign Relations*, 1922, vol. 1, pp. 656 ff. The four speeches made by the Secretary of State were published in *Addresses in Brazil Delivered by the Hon. Charles Evans Hughes, Secretary of State, September, 1922* (Washington, The Pan American Union, 1922).

can ideals and aspirations. You, my fellow countrymen of the United States, know full well how sincerely we desire the independence, the unimpaired sovereignty and political integrity, and the constantly increasing prosperity of the peoples of Latin America. We have our domestic problems incident to the expanding life of a free people, but there is no imperialistic sentiment among us to cast even a shadow across the pathway of our progress. We covet no territory; we seek no conquest; the liberty we cherish for ourselves we desire for others; and we assert no rights for ourselves that we do not accord to others. We sincerely desire to see throughout this hemisphere an abiding peace, the reign of justice and the diffusion of the blessings of a beneficent cooperation. It is this desire which forms the basis of the Pan American sentiment."

Recent efforts, which there is no occasion to criticize so long as they are kept within their proper sphere, to bring Latin American States into closer contact with non-American Powers make it important that there should be no sacrifice through such endeavors of essential American interests. There should be no yielding to the suggestion of the control or influence of non-American Powers in the settlement of political questions of a distinctively American nature, or of the establishment by non-American Powers of territorial or political rights over American territory. There is, as John Bassett Moore has declared, an "American System based upon the distinctive interests which American countries have in common." He adds:

"To the extent to which Europe should become implicated in American politics, or to which American countries should become implicated in European politics, this distinction would necessarily be broken down, and the foundations of the American system would be impaired; and to the extent to which the foundations of the American system were impaired, Pan Americanism would lose its vitality and the Monroe Doctrine its accustomed and tangible meaning." (J. B. Moore, *Principles of American Diplomacy*, 1918, x-xi.)

This Government does not approve the creation with non-American States of relationships which are to be deemed hostile to the Monroe Doctrine and, it must also be recognized that there are the greatest difficulties in proposing a policy, which would be capable of safe expression in a Pan American agreement, touching matters which fall within the scope of the Monroe Doctrine. No arrangement should be entered into, or resolution agreed to, which could possibly be interpreted as curtailing in any way the application by the United States of the Monroe Doctrine. There should be no opening for the limitation of its action in that application through acquiescence in any arrangement whereby an American State could accept non-American control of its territory or political action. No opportunity should be given to a non-American State through any Pan American agreement to seek to impair the position which the United States has won through its assertion of its national policy.

This Government has no objection to the adoption of resolutions, if this course is desired by the Latin American Republics, asserting their opposition to all attempts at aggression or invasion of their rights by non-American Powers. It is not deemed to be probable that proposals for a definite alliance would meet with the favor of the Conference. Such proposals should not be encouraged by the delegates from the United States. If it were proposed that if the rights of an American nation were threatened by the unjust and aggressive action of a non-American Power, the American Republics should communicate with one another fully and frankly in order to reach an understanding concerning the measures to be taken, jointly or separately, to meet the exigencies of the particular situation, there would be no objection on the part of this Government provided always that freedom of action on the part of the United States under the Monroe Doctrine were completely reserved.

REPRESENTATION OF SPAIN (OR OTHER EUROPEAN COUNTRIES) BY UNOFFICIAL OBSERVERS AT THE SIXTH CONFERENCE

You are instructed to oppose any suggestion which may be made for the representation of Spain, Portugal, France, Italy or any other country not a member of the Pan American Union, to be represented at the Conference by an Unofficial Observer.

The Pan American Conferences are strictly conferences of American States, held to discuss matters of especial and peculiar importance to the nations of the Western Hemisphere and it would obviously not be possible or proper to have other states represented at these conferences even by unofficial observers who would take no part in the discussions and would not even vote. Should there be no necessity for discussing matters affecting only the American nations there would be no reason for these conferences; and should there be a necessity for discussing matters of world wide concern or affecting non-American countries the need would be for some other form of conference of wider scope. For the discussion of questions affecting nations in both hemispheres there are many international conferences at which both European and American States are represented and at which world wide problems are discussed. But as there are also problems pertaining especially to this hemisphere, these Pan American conferences are held.

The United States entertains the friendliest feelings towards all the European countries and its action in opposing their representation at the Conference, even by unofficial observers, should not be considered as showing any lack of friendliness for them. It is clear that if they were represented the conferences would cease to be purely Pan American conferences. Furthermore, if one non-American power should be represented there would be no reason why others who have possessions in this hemisphere, or who bear the relation of

a "mother country" to one or more of the American nations, should be excluded. It would be difficult to say that one non-American country should be represented and not any other, and in any case the presence of one non-American country would change the character of the conference, which would no longer be a conference of purely American States to discuss purely American problems.

TRANSFER OF THE PAN AMERICAN UNION FROM WASHINGTON TO SOME OTHER CAPITAL

There have been frequent rumors that a proposal will be made at the Sixth Pan American Conference to transfer the seat of the Pan American Union from Washington to the capital of some Latin American nation. Panama, Santo Domingo and Uruguay have been mentioned specifically. It is said that this action would be based on the theory that in Washington the Pan American Union is too much influenced by the State Department and dominated by the United States. Also that the Pan American Union containing as it does a great majority of Spanish-speaking countries should have its seat in a Spanish-speaking capital.

The Department does not believe that any serious effort will be made to adopt such a plan at the Sixth Conference. If a suggestion is made to include this question among the agenda it would seem desirable that the United States delegates, while being careful not to express their approval, should not, unless absolutely necessary, take a leading part in opposing it. It is felt that some of the Latin American delegates will see the disadvantages of opening this question and the advantages of maintaining the Union in Washington; . . .

. . . A number of arguments against such a change will readily occur to you, among others:

1). The eminent suitability of the present Pan American building in Washington, which was constructed on land donated by the United States, at a cost of about \$850,000, the entire amount being contributed by the well known philanthropist Andrew Carnegie. This building could not be duplicated in another locality for anything like its original cost.

2). The advantages which the United States offers as a center of information on all subjects connected with the advancement of human knowledge and welfare. This country contains the headquarters of many organizations working for world improvement in sanitary, engineering, economic and social matters.

3). The fact that Washington is the only capital on the American continents at which all Latin-American nations constantly maintain a representative.

CANADA

The International Conferences of American States, commonly called the Pan American Conferences, are, as their name implies, conferences of American political entities to consider and discuss matters of special importance to the States of the western hemisphere. Should there be no need to discuss matters affecting the States of this hemisphere there would be no reason to hold such conferences, and, on the other hand, should there be a necessity of discussing topics and problems of world wide concern, or having a relation at least to other political entities not included in the western hemisphere, the necessity would be not for a conference of American States but for some other form of conference of different scope.

The Pan American Conferences are essentially conferences of governments and not of mere geographical groups or territorial units. Being conferences attended by the official representatives of Governments, they necessarily reflect the exigencies and policies of the Governments participating. If colonies, possessions or dominions, whose foreign relations are controlled by European States, were represented in these conferences, the influence and policies of European Powers would be injected into the discussion and disposition of questions affecting the political entities of this hemisphere. Whatever value such conferences would have it would not be that attaching to a conference distinctively American. Should Canada be proposed as a Member of the Pan American Union, you will be guided by the oral instructions given by the Secretary of State to the Delegation at its meeting at the Department of State on December 28, 1927.

LEAGUE OF NATIONS

Reference may here be made also to the participation, which has been informally suggested, of representatives of the League of Nations in the Pan American Conference. It should be understood that no disparagement or criticism of the League of Nations is intended, when it is observed that the Pan American Conference is organized upon a distinct and separate basis. The scope of the League of Nations is intended to be world-wide and a number of American States are members of the League and are thus able to express their point of view on matters of world-wide import which come before the attention of the Council and the Assembly of the League respectively. The Pan American Conference exists because of the distinct interests of American States which, without antagonism to any world relationship, makes it desirable for them to confer with respect to the problems which especially relate to States of this hemisphere.

There is, of course, not the slightest objection for cooperation with the technical services of the League of Nations through the exchange

of reports and information, and reciprocal advantage may thus appropriately be taken of statistics and reports of investigation. Participation of representatives of the League of Nations in the Pan American Conference, however, would bring to the Conference the viewpoints and policies of the States who are members of the League of Nations and are not American States and thus fundamentally alter the nature of the Conference itself.

The scope of the Pan American Conference is defined by Pan American interests and aims and if its usefulness is to be preserved, the integrity of the Conference as an exclusively American Conference should be maintained.

[Appendix 2]

Special Economic Memorandum

Trade between the United States and Latin America has shown a steady increase during the period which has intervened since the Fifth Conference. Exports from the United States to the Latin American countries in 1923 amounted to \$693,000,000, and in 1926 to \$882,000,000, showing an increase of about 27 per cent. Imports into the United States from the Latin American countries in 1923 amounted to \$1,050,000,000, and in 1926 to \$1,104,000,000, showing an increase of about 5 per cent. Thus the total trade of the United States with the Latin American countries amounted in 1923 to \$1,744,000,000, and in 1926 to \$1,986,000,000, or an increase of about 14 per cent. In 1923 this trade with the Latin American countries constituted 21.9 per cent of the total world trade of the United States, and in 1926 21 per cent, the Latin American share of the United States total trade decreasing in spite of the great gain in Latin American trade because of the increase in trade between the United States and other parts of the world. During this entire period the visible balance of trade was in favor of the Latin American countries to a very large extent. Trade with the United States amounts to about 36 per cent of the total trade of the combined Latin American countries.

Cuba ranks first among the countries of Latin America, not only in imports from but in exports to the United States. Our imports of merchandise from Cuba in 1926 were valued at \$250,600,000, and our exports at \$160,488,000. The amount of United States capital invested in Cuba is between \$1,250,000,000 and \$1,500,000,000. Moreover, a large amount is spent in the island annually by tourists from the United States. From these figures it is apparent that Cuba presents a broad field for the extension of American manufactured exports.

The past five years have witnessed an unprecedented flow of American capital to Latin America, our total investment in that

field being now estimated at \$4,800,000,000, of which \$1,250,000,000 to \$1,500,000,000 are invested in Cuba. While the Latin American governments and people in general recognize the advantages derived from the use of this capital, which permits them to develop their natural resources; improve their means of communication; and create municipal improvements and sanitary works; nevertheless a growing uneasiness has lately been manifested throughout Latin America lest this dependence on the American financial market may lead to some form of economic domination, or even, eventually to armed intervention. It is possible that this feeling may be expressed at the Sixth Pan American Conference. Should this be the case you will, while refraining from committing this Government as to what action it might or might not have to take to protect American holders of foreign securities in unforeseen contingencies, make it plain that Americans investing their money abroad seek only that justice and fair treatment to which creditors are entitled by universally accepted principles of law and that the United States Government expects that such fair treatment will be accorded them and asks no more.

Conventions⁵⁴

Treaty Series No. 840

*Convention Regarding Commercial Aviation, Signed at Habana, February 20, 1928*⁵⁵

The Governments of the American Republics, desirous of establishing the rules they should observe among themselves for aerial traffic, have decided to lay them down in a convention, and to that effect have appointed as their plenipotentiaries:

[Here follows list of names of plenipotentiaries.]

Who, after having exchanged their respective full powers, which have been found to be in good and due form, have agreed upon the following:

ARTICLE I

The high contracting parties recognize that every state has complete and exclusive sovereignty over the air space above its territory and territorial waters.

⁵⁴ Of the eleven conventions adopted at Habana on Feb. 20, 1928, the United States ratified six, the texts of which are printed herewith. The other conventions were those with respect to (1) private international law, (2) revision of the convention of Buenos Aires regarding literary and artistic copyright, (3) treaties, (4) diplomatic officers, and (5) asylum. For the texts of these five conventions, see *Sixth International Conference of American States, Havana, 1928. Final Act, and Report of the Delegates of the United States of America to the Sixth International Conference of American States.*

⁵⁵ In English, Spanish, Portuguese, and French; English text, only, printed. Ratification advised by the Senate, Feb. 20, 1931 (legislative day of Feb. 17, 1931); ratified by the President, Mar. 6, 1931; ratification of the United States deposited with the Government of Cuba, July 17, 1931; proclaimed by the President, July 27, 1931.

ARTICLE II

The present convention applies exclusively to private aircraft.

ARTICLE III

The following shall be deemed to be state aircraft:

- a) Military and naval aircraft;
- b) Aircraft exclusively employed in state service, such as posts, customs, and police.

Every other aircraft shall be deemed to be a private aircraft.

All state aircraft other than military, naval, customs and police aircraft shall be treated as private aircraft and as such shall be subject to all the provisions of the present convention.

ARTICLE IV

Each contracting state undertakes in time of peace to accord freedom of innocent passage above its territory to the private aircraft of the other contracting states, provided that the conditions laid down in the present convention are observed. The regulations established by a contracting state with regard to admission over its territory of aircraft of other contracting states shall be applied without distinction of nationality.

ARTICLE V

Each contracting state has the right to prohibit, for reasons which it deems convenient in the public interest, the flight over fixed zones of its territory by the aircraft of the other contracting states and privately owned national aircraft employed in the service of international commercial aviation, with the reservation that no distinction shall be made in this respect between its own private aircraft engaged in international commerce and those of the other contracting states likewise engaged. Each contracting state may furthermore prescribe the route to be followed over its territory by the aircraft of the other states, except in cases of *force majeure* which shall be governed in accordance with the stipulations of Article 18 of this convention. Each state shall publish in advance and notify the other contracting states of the fixation of the authorized routes and the situation and extension of the prohibited zones.

ARTICLE VI

Every aircraft over a prohibited area shall be obliged, as soon as this fact is realized or upon being so notified by the signals agreed upon, to land as soon as possible outside of said area in the airdrome

nearest the prohibited area over which it was improperly flying and which is considered as an international airport by the subjacent state.

ARTICLE VII

Aircraft shall have the nationality of the state in which they are registered and can not be validly registered in more than one state.

The registration entry and the certificate of registration shall contain a description of the aircraft and state, the number or other mark of identification given by the constructor of the machine, the registry marks and nationality, the name of the airdrome or airport usually used by the aircraft, and the full name, nationality and domicile of the owner, as well as the date of registration.

ARTICLE VIII

The registration of aircraft referred to in the preceding article shall be made in accordance with the laws and special provisions of each contracting state.

ARTICLE IX

Every aircraft engaged in international navigation must carry a distinctive mark of its nationality, the nature of such distinctive mark to be agreed upon by the several contracting states. The distinctive marks adopted will be communicated to the Pan American Union and to the other contracting states.

ARTICLE X

Every aircraft engaged in international navigation shall carry with it in the custody of the aircraft commander:

- a) A certificate of registration, duly certified to according to the laws of the state in which it is registered;
- b) A certificate of airworthiness, as provided for in Article 12;
- c) The certificates of competency of the commander, pilots, engineers, and crew, as provided for in Article 13;
- d) If carrying passengers, a list of their names, addresses and nationality;
- e) If carrying merchandise, the bills of lading and manifests, and all other documents required by customs laws and regulations of each country;
- f) Log books;
- g) If equipped with radiotelegraph apparatus, the corresponding license.

ARTICLE XI

Each contracting state shall every month file with every other state party to this convention and with the Pan American Union, a

copy of all registrations and cancellations of registrations of aircraft engaged in international navigation as between the several contracting states.

ARTICLE XII

Every aircraft engaged in international navigation (between the several contracting states) shall be provided with a certificate of airworthiness issued by the state whose nationality it possesses.

This document shall certify to the states in which the aircraft is to operate, that, according to the opinion of the authority that issues it, such aircraft complies with the airworthiness requirements of each of the states named in said certificate.

The aircraft commander shall at all times hold the certificate in his custody and shall deliver it for inspection and verification to the authorized representatives of the state which said aircraft visits.

Each contracting state shall communicate to the other states parties to this convention and to the Pan American Union its regulations governing the rating of its aircraft as to airworthiness and shall similarly communicate any changes made therein.

While the states affirm the principle that the aircraft of each contracting state shall have the liberty of engaging in air commerce with the other contracting states without being subjected to the licensing system of any state with which such commerce is carried on, each and every contracting state mentioned in the certificate of airworthiness reserves the right to refuse to recognize as valid the certificate of airworthiness of any foreign aircraft where inspection by a duly authorized commission of such state shows that the aircraft is not, at the time of inspection, reasonably airworthy in accordance with the normal requirements of the laws and regulations of such state concerning the public safety.

In such cases said state may refuse to permit further transit by the aircraft through its air space until such time as it, with due regard to the public safety, is satisfied as to the airworthiness of the aircraft, and shall immediately notify the state whose nationality the aircraft possesses and the Pan American Union of the action taken.

ARTICLE XIII

The aircraft commander, pilots, engineers, and other members of the operating crew of every aircraft engaged in international navigation between the several contracting states shall, in accordance with the laws of each state, be provided with a certificate of competency by the contracting state whose nationality the aircraft possesses.

Such certificate or certificates shall set forth that each pilot, in addition to having fulfilled the requirements of the state issuing the

same, has passed a satisfactory examination with regard to the traffic rules existing in the other contracting states over which he desires to fly. The requirements of form of said documents shall be uniform throughout all the contracting states and shall be drafted in the language of all of them, and for this purpose the Pan American Union is charged with making the necessary arrangements amongst the contracting states.

Such certificate or certificates shall be held in the possession of the aircraft commander as long as the pilots, engineers and other members of the operating crew concerned continue to be employed on the aircraft. Upon the return of such certificate an authenticated copy thereof shall be retained in the files of the aircraft.

Such certificate or certificates shall be open at all times to the inspection of the duly authorized representatives of any state visited.

Each contracting state shall communicate to the other states parties to this convention and to the Pan American Union its regulations governing the issuance of such certificates and shall from time to time communicate any changes made therein.

ARTICLE XIV

Each and every contracting state shall recognize as valid, certificates of competency of the aircraft commander, pilots, engineers and other members of the operating crew of an aircraft, issued in accordance with the laws and regulations of other contracting states.

ARTICLE XV

The carriage by aircraft of explosives, arms and munitions of war is prohibited in international aerial navigation. Therefore, no foreign or native aircraft authorized for international traffic shall be permitted to transport articles of this nature, either between points situated within the territory of any of the contracting states or through the same even though simply in transit.

ARTICLE XVI

Each state may prohibit or regulate the carriage or use, by aircraft possessing the nationality of other contracting states, of photographic apparatus. Such regulations as may be adopted by each state concerning this matter shall be communicated to each other contracting state and to the Pan American Union.

ARTICLE XVII

As a measure of public safety or because of lawful prohibitions, the transportation of articles in international navigation other than

those mentioned in Articles 15 and 16 may be restricted by any contracting state. Such restrictions shall be immediately communicated to the other contracting states and to the Pan American Union.

All restrictions mentioned in this article shall apply equally to foreign and national aircraft employed in international traffic.

ARTICLE XVIII

Every aircraft engaged in international traffic which enters the air space of a contracting state with the intention of landing in said state shall do so in the corresponding customs airdrome, except in the cases mentioned in Article 19 and in case of *force majeure*, which must be proved.

Every aircraft engaged in international navigation, prior to its departure from the territorial jurisdiction of a contracting state in which it has landed, shall obtain such clearance as is required by the laws of such state at a port designated as point of departure by such state.

Each and every contracting state shall notify every other state party to this convention and the Pan American Union of such airports as shall be designated by such state as ports of entry and departure.

When the laws or regulations of any contracting state so require, no aircraft shall legally enter into or depart from its territory through places other than those previously authorized by such state as international airports, and the landing therein shall be obligatory unless a special permit, which has been previously communicated to the authorities of said airport, is obtained from the competent authorities of said state, in which permit shall be clearly expressed the distinctive marks which the aircraft is obliged to make visible whenever requested to do so in the manner previously agreed upon in said permit.

In the event that for any reason, after entering the territorial jurisdiction of a contracting state, aircraft of another contracting state should land at a point other than an airport designated as a port of entry in that state the aircraft commander shall immediately notify the nearest competent authority and hold himself, crew, passengers and cargo at the point of landing until proper entry has been granted by such competent authority, unless communication therewith is impracticable within twenty-four hours.

Aircraft of one of the contracting states which flies over the territory of another contracting state shall be obliged to land as soon as ordered to do so by means of the regulation signals, when for any reason this may be necessary.

In the cases provided for in this article, the aircraft, aircraft commander, crew, passengers and cargo shall be subject to such immi-

gration, emigration, customs, police, quarantine or sanitary inspection as the duly authorized representatives of the subjacent state may make in accordance with its laws.

ARTICLE XIX

As an exception to the general rules, postal aircraft and aircraft belonging to aerial transport companies regularly constituted and authorized may be exempted, at the option of the subjacent state, from the obligation of landing at an airdrome designated as a port of entry and authorized to land at certain inland airdromes, designated by the customs and police administration of such state, at which customs formalities shall be complied with. The departure of such aircraft from the state visited may be regulated in a similar manner.

However, such aircraft shall follow the normal air route, and make their identity known by signals agreed upon as they fly across the frontier.

ARTICLE XX

From the time of landing of a foreign aircraft at any point whatever until its departure the authorities of the state visited shall have, in all cases, the right to visit and examine the aircraft and to verify all documents with which it must be provided, in order to determine that all the laws, rules and regulations of such states and all the provisions of this convention are complied with.

ARTICLE XXI

The aircraft of a contracting state engaged in international air commerce shall be permitted to discharge passengers and a part of its cargo at one of the airports designated as a port of entry of any other contracting state, and to proceed to any other airport or airports in such state for the purpose of discharging the remaining passengers and portions of such cargo and in like manner to take on passengers and load cargo destined for a foreign state or states, provided that they comply with the legal requirements of the country over which they fly, which legal requirements shall be the same for native and foreign aircraft engaged in international traffic and shall be communicated in due course to the contracting states and to the Pan American Union.

ARTICLE XXII

Each contracting state shall have the right to establish reservations and restrictions in favor of its own national aircraft in regard to the commercial transportation of passengers and merchandise between two or more points in its territory, and to other remunerated aéro-

nautical operations wholly within its territory. Such reservations and restrictions shall be immediately published and communicated to the other contracting states and to the Pan American Union.

ARTICLE XXIII

The establishment and operation of airdromes will be regulated by the legislation of each country, equality of treatment being observed.

ARTICLE XXIV

The aircraft of one contracting state engaged in international commerce with another contracting state shall not be compelled to pay other or higher charges in airports or airdromes open to the public than would be paid by national aircraft of the state visited, likewise engaged in international commerce.

ARTICLE XXV

So long as a contracting state shall not have established appropriate regulations, the commander of an aircraft shall have rights and duties analogous to those of the captain of a merchant steamer, according to the respective laws of each state.

ARTICLE XXVI

The salvage of aircraft lost at sea shall be regulated, in the absence of any agreement to the contrary, by the principles of maritime law.

ARTICLE XXVII

The aircraft of all states shall have the right, in cases of danger, to all possible aid.

ARTICLE XXVIII

Reparations for damages caused to persons or property located in the subjacent territory shall be governed by the laws of each state.

ARTICLE XXIX

In case of war the stipulations of the present convention shall not affect the freedom of action of the contracting states either as belligerents or as neutrals.

ARTICLE XXX

The right of any of the contracting states to enter into any convention or special agreement with any other state or states concerning international aerial navigation is recognized, so long as such conven-

tion or special agreement shall not impair the rights or obligations of any of the states parties to this convention, acquired or imposed herein; provided, however, that two or more states, for reasons of reciprocal convenience and interest may agree upon appropriate regulations pertaining to the operation of aircraft and the fixing of specified routes. These regulations shall in no case prevent the establishment and operation of practicable inter-American aerial lines and terminals. These regulations shall guarantee equality of treatment of the aircraft of each and every one of the contracting states and shall be subject to the same conditions as are set forth in Article 5 of this convention with respect to prohibited areas within the territory of a particular state.

Nothing contained in this convention shall affect the rights and obligations established by existing treaties.

ARTICLE XXXI

The contracting states obligate themselves in so far as possible to cooperate in inter-American measures relative to:

- a) The centralization and distribution of meteorological information, whether statistical, current or special;
- b) The publication of uniform aeronautical charts, as well as the establishment of a uniform system of signals;
- c) The use of radiotelegraph in aerial navigation, the establishment of the necessary radiotelegraph stations and the observance of the inter-American and international radiotelegraph regulations or conventions at present existing or which may come into existence.

ARTICLE XXXII

The contracting states shall procure as far as possible uniformity of laws and regulations governing aerial navigation. The Pan American Union shall cooperate with the governments of the contracting states to attain the desired uniformity of laws and regulations for aerial navigation in the states parties to this convention.

Each contracting state shall exchange with every other contracting state within three months after the date of ratification of this convention copies of its air-traffic rules and requirements as to competency for aircraft commanders, pilots, engineers, and other members of the operating crew, and the requirements for airworthiness of aircraft intended to engage in international commerce.

Each contracting state shall deposit with every other state party to this convention and with the Pan American Union three months prior to the date proposed for their enforcement any additions to or amendments of the regulations referred to in the last preceding paragraph.

ARTICLE XXXIII

Each contracting state shall deposit its ratification with the Cuban Government, which shall thereupon inform the other contracting states. Such ratification shall remain deposited in the archives of the Cuban Government.

ARTICLE XXXIV

The present convention will come into force for each signatory state ratifying it in respect to other states which have already ratified, forty days from the date of deposit of its ratification.

ARTICLE XXXV

Any state may adhere to this convention by giving notice thereof to the Cuban Government, and such adherence shall be effective forty days thereafter. The Cuban Government shall inform the other signatory states of such adherence.

ARTICLE XXXVI

In case of disagreement between two contracting states regarding the interpretation or execution of the present convention the question shall, on the request of one of the governments in disagreement, be submitted to arbitration as hereinafter provided. Each of the governments involved in the disagreement shall choose another government not interested in the question at issue and the government so chosen shall arbitrate the dispute. In the event the two arbitrators cannot reach an agreement they shall appoint another disinterested government as additional arbitrator. If the two arbitrators cannot agree upon the choice of this third government, each arbitrator shall propose a government not interested in the dispute and lots shall be drawn between the two governments proposed. The drawing shall devolve upon the Governing Board of the Pan American Union.

The decision of the arbitrators shall be by majority vote.

ARTICLE XXXVII

Any contracting state may denounce this convention at any time by transmitting notification thereof to the Cuban Government, which shall communicate it to the other states parties to this convention. Such denunciation shall not take effect until six months after notification thereof to the Cuban Government, and shall take effect only with respect to the state making the denunciation.

IN WITNESS WHEREOF, the above-named plenipotentiaries have signed this convention and the seal of the Sixth International Conference of American States has been hereto affixed.

Perú: JESÚS M. SÁLAZAR, VÍCTOR M. MAÚRTUA, LUIS ERNESTO DENEGRI, E. CASTRO OYANGUREN.

Uruguay: VARELA, PEDRO ERASMO CALLORDA.

Panamá: R. J. ALFARO, EDUARDO CHIARI.

Ecuador: GONZALO ZALDUMBIDE, VÍCTOR ZEVALLOS, C. E. ALFARO.

Mexico: JULIO GARCÍA, FERNANDO GONZÁLEZ ROA, SALVADOR URBINA, AQUILES ELORDUY.

Salvador: J. GUSTAVO GUERRERO, HÉCTOR DAVID CASTRO, ED. ALVAREZ.

Guatemala: CARLOS SALAZAR, B. ALVARADO, LUIS BELTRANENA, J. AZURDIA.

Nicaragua: CARLOS CUADRA PAZOS, MÁXIMO H. ZEPEDA, JOAQUÍN GÓMEZ.

Bolivia: JOSÉ ANTEZANA, A. COSTA DU R.

Venezuela: SANTIAGO KEY AYALA, FRANCISCO G. YANES, RAFAEL ANGEL ARRAIZ.

Colombia: ENRIQUE OLAYA HERRERA, R. GUTIÉRREZ LEE, J. M. YEPES.

Honduras: F. DÁVILA, MARIANO VÁZQUEZ.

Costa Rica: RICARDO CASTRO BEECHE, J. RAFAEL OREAMUNO, A. TINOCO JIMÉNEZ.

Chile: ALEJANDRO LIRA, ALEJANDRO ALVAREZ, C. SILVA VILDÓSOLA, MANUEL BIANCHI.

Brazil: RAÚL FERNANDES, LINDOLFO COLLOR.

Argentina: LAURENTINO OLASCOAGA, FELIPE A. ESPIL, CARLOS ALBERTO ALCORTA.

Paraguay: LISANDRO DÍAZ LEÓN, JUAN VICENTE RAMÍREZ.

Haiti: FERNANDO DENNIS.

Dominican Republic: FRACO. J. PEYNADO, TULIO M. CESTERO, JACINTO R. DE CASTRO, ELÍAS BRACHE, R. PÉREZ ALFONSECA.

United States of America: CHARLES EVANS HUGHES, NOBLE BRANDON JUDAH, HENRY P. FLETCHER, OSCAR W. UNDERWOOD, MORGAN J. O'BRIEN, JAMES BROWN SCOTT, RAY LYMAN WILBUR, LEO S. ROWE.

Cuba: ANTONIO S. DE BUSTAMANTE, ORESTES FERRARA, E. HERNÁNDEZ CARTAYA, ARÍSTIDES DE AGUERO BETHENCOURT, M. MÁRQUEZ STERLING, NÉSTOR CARBONELL.

RESERVATION OF THE DOMINICAN REPUBLIC

The delegation of the Dominican Republic records, as an explanation of its vote, that upon signing the present convention it does not understand that the Dominican Republic dissociates itself from conventions it has already ratified and which are in force.

Treaty Series No. 815

*Convention Regarding the Status of Aliens, Signed at Habana,
February 20, 1928*⁵⁶

The Governments of the Republics represented at the Sixth International Conference of American States, held in the city of Habana, Republic of Cuba, in the year 1928;

Have decided to conclude a convention for the purpose of determining the status of aliens within their respective territories and to that end have appointed the following plenipotentiaries:

[Here follows list of names of plenipotentiaries.]

Who, after depositing their full powers, which were found to be in good and due form, have agreed upon the following provisions:

ARTICLE 1

States have the right to establish by means of laws the conditions under which foreigners may enter and reside in their territory.

ARTICLE 2

Foreigners are subject as are nationals to local jurisdiction and laws, due consideration being given to the limitations expressed in conventions and treaties.

ARTICLE 3⁵⁷

Foreigners may not be obliged to perform military service; but those foreigners who are domiciled, unless they prefer to leave the country, may be compelled, under the same conditions as nationals, to perform police, fire-protection, or militia duty for the protection of the place of their domicile against natural catastrophes or dangers not resulting from war.

ARTICLE 4⁵⁷

Foreigners are obliged to make ordinary or extraordinary contributions, as well as forced loans, always provided that such measures apply to the population generally.

ARTICLE 5

States should extend to foreigners, domiciled or in transit through their territory, all individual guaranties extended to their own na-

⁵⁶ In English, Spanish, Portuguese, and French; English text, only, printed. Ratification advised by the Senate, with exception of articles 3 and 4, Apr. 16, 1930 (legislative day of Apr. 14, 1930); ratified by the President, with exception of articles 3 and 4, May 7, 1930; ratification of the United States deposited with the Pan American Union, May 21, 1930; proclaimed by the President, June 6, 1930.

⁵⁷ Articles 3 and 4 excepted from ratification by the United States of America.

nationals, and the enjoyment of essential civil rights without detriment, as regards foreigners, to legal provisions governing the scope of and usages for the exercise of said rights and guaranties.

ARTICLE 6

For reasons of public order or safety, states may expel foreigners domiciled, resident, or merely in transit through their territory.

States are required to receive their nationals expelled from foreign soil who seek to enter their territory.

ARTICLE 7

Foreigners must not mix in political activities, which are the exclusive province of citizens of the country in which they happen to be; in cases of such interference, they shall be liable to the penalties established by local law.

ARTICLE 8

The present convention does not affect obligations previously undertaken by the contracting parties through international agreements.

ARTICLE 9

After being signed, the present convention shall be submitted to the ratification of the signatory states. The Government of Cuba is charged with transmitting authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, the Union to notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications. This convention shall remain open to the adherence of nonsignatory states.

In witness whereof, the aforementioned plenipotentiaries sign the present convention in Spanish, English, French, and Portuguese, in the city of Habana, the 20th day of February, 1928.

Perú: JESÚS M. SALAZAR, VÍCTOR M. MAÚRTUA, LUIS ERNESTO DENEGRI, E. CASTRO OYANGUREN.

Uruguay: VARELA, PEDRO ERASMO CALLORDA.

Panamá: R. J. ALFARO, EDUARDO CHIARI.

Ecuador: GONZALO ZALDUMBIDE, VÍCTOR ZEVALLOS, C. E. ALFARO.

Mexico: JULIO GARCÍA, FERNANDO GONZÁLEZ ROA, SALVADOR URBINA, AQUILES ELORDUY.

Salvador: J. GUSTAVO GUERRERO, HÉCTOR DAVID CASTRO, ED. ALVAREZ.

Guatemala: CARLOS SALAZAR, B. ALVARADO, LUIS BELTRANENA, J. AZURDIA.

Nicaragua: CARLOS CUADRO PAZOS, MÁXIMO H. ZEPEDA, JOAQUÍN GÓMEZ.

Bolivia: JOSÉ ANTEZANA, A. COSTA DU R.

Venezuela: SANTIAGO KEY AYALA, FRANCISCO G. YANES, RAFAEL ANGEL ARRAIZ.

Colombia: ENRIQUE OLAYA HERRERA, R. GUTIÉRREZ LEE, J. M. YEPES.

Honduras: F. DÁVILA, MARIANO VÁZQUEZ.

Costa Rica: RICARDO CASTRO BEECHE, J. RAFAEL OREAMUNO, A. TINOCO JIMÉNEZ.

Chile: ALEJANDRO LIRA, ALEJANDRO ALVAREZ, C. SILVA VILDÓSOLA, MANUEL BIANCHI.

Brazil: RAÚL FERNANDES, LINDOLFO COLLOR.

Argentina: LAURENTINO OLASCOAGA, FELIPE A. ESPIL, CARLOS ALBERTO ALCORTA.

Paraguay: LISANDRO DÍAZ LEÓN, JUAN VICENTE RAMÍREZ.

Haiti: FERNANDO DENNIS.

Dominican Republic: FRACO. J. PEYNADO, TULIO M. CESTERO, JACINTO R. DE CASTRO, ELÍAS BRACHE, R. PÉREZ ALFONSECA.

RESERVATION OF THE DELEGATION OF THE UNITED STATES OF AMERICA

The delegation of the United States of America signs the present convention making express reservation to Article 3 of the same, which refers to military service of foreigners in case of war.

United States of America: CHARLES EVANS HUGHES, NOBLE BRANDON JUDAH, HENRY P. FLETCHER, OSCAR W. UNDERWOOD, MORGAN J. O'BRIEN, JAMES BROWN SCOTT, RAY LYMAN WILBUR, LEO S. ROWE.

Cuba: ANTONIO S. DE BUSTAMANTE, ORESTES FERRARA, E. HERNÁNDEZ CARTAYA, ARÍSTIDES DE AGÜERO BETHENCOURT, M. MÁRQUEZ STERLING, NÉSTOR CARBONELL.

Treaty Series No. 843

*Convention Regarding Consular Agents, Signed at Habana, February 20, 1928*⁵³

The governments of the Republics represented at the Sixth International Conference of American States, held in the city of Habana, Republic of Cuba, in the year nineteen hundred and twenty-eight,

⁵³ In English, Spanish, Portuguese, and French; English text, only, printed. Ratification advised by the Senate, Jan. 22, 1932; ratified by the President, Feb. 1, 1932; ratification of the United States deposited with the Pan American Union, Feb. 8, 1932; proclaimed by the President, Feb. 11, 1932.

desirous of defining the duties, rights, prerogatives and immunities of consular agents, in accordance with the usages and agreements on the matter;

Have decided to conclude a convention to that end and have appointed the following plenipotentiaries:

[Here follows list of names of plenipotentiaries.]

Who, after having deposited their full powers, found to be in good and due form, have agreed to the following provisions:

SECTION I—*Appointments and functions*

ARTICLE 1

States may appoint in the territory of others, with the express or tacit consent of the latter, consuls who shall there represent and defend their commercial and industrial interests and render to their nationals such assistance and protection as they may need.

ARTICLE 2

The form and requirements for appointment, the classes and the rank of the consuls, shall be regulated by the domestic laws of the respective state.

ARTICLE 3

Unless consented to by the state where he is to serve, one of its nationals may not act as consul. The granting of an exequatur implies such consent.

ARTICLE 4

The consul having been appointed, the state shall forward through diplomatic channels to the other state the respective commission which shall contain the name, category and authority of the appointee.

As to a vice consul or commercial agent appointed by the respective consul, where there is authorization by law, the commission shall be issued and communicated to the latter.

ARTICLE 5

States may refuse to accept consuls appointed in their territory or subject the exercise of consular functions to certain special obligations.

ARTICLE 6

The consul can be recognized as such only after having presented his commission and obtained the exequatur of the state in whose territory he is to serve. Provisional recognition can be granted upon

the request of the legation of the consul pending the delivery in due form of the exequatur.

Officials appointed under the terms of Article 4 are likewise subject to this formality and in such case it rests with the respective consul to request the exequatur.

ARTICLE 7

The exequatur having been obtained, it shall be presented to the authorities of the consular district, who shall protect the consul in the exercise of his functions and guarantee to him the immunities to which he is entitled.

ARTICLE 8

The territorial government may at any time withdraw the consul's exequatur, but, except in urgent cases, it shall not have recourse to this measure without previously attempting to obtain from the consul's government his recall.

ARTICLE 9

In case of the death, disability or absence of consular agents any of the assistant employees whose official position has been previously made known to the ministry of foreign affairs or the department of state, may temporarily assume the consular functions; while thus engaged he shall enjoy all the rights and prerogatives corresponding to the permanent official.

ARTICLE 10

Consuls shall exercise the functions that the law of their state confers upon them, without prejudice to the legislation of the country where they are serving.

ARTICLE 11

In the exercise of their functions, consuls shall deal directly with the authorities of their district. Should their representations not be heeded, they may then pursue them before the government of the state through the intermediary of their diplomatic representative, but should not communicate directly with the government except in the absence or non-existence of a diplomatic representative.

ARTICLE 12

In case of the absence of a diplomatic representative of the consul's state, the consul may undertake such diplomatic actions as the government of the state in which he functions may permit in such cases.

ARTICLE 13

A person duly accredited for the purpose may combine diplomatic representation and the consular function provided the state before which he is accredited consents to it.

SECTION II—*Prerogatives of consuls*

ARTICLE 14

In the absence of a special agreement between two nations, the consular agents who are nationals of the state appointing them, shall neither be arrested nor prosecuted except in the cases when they are accused of committing an act classed as a crime by local legislation.

ARTICLE 15

In criminal cases, the prosecution or the defense may request attendance of consular agents at the trial, as witnesses. This request must be made with all possible consideration to consular dignity and to the duties of the consular office and shall be complied with by the consular official.

Consular agents shall be subject to the jurisdiction of the courts in civil cases, although with the limitation that when the consul is a national of his state and is not engaged in any private business with purposes of gain, his testimony shall be taken either verbally or in writing, at his residence or office, with all the consideration to which he is entitled.

The consul may, nevertheless, of his own free will appear as a witness when such appearance does not seriously hinder the discharge of his official duties.

ARTICLE 16

Consuls are not subject to local jurisdiction for acts done in their official character and within the scope of their authority. In case a private individual deems himself injured by the consul's action, he must submit his complaint to the government, which, if it considers the claim to be relevant, shall make it valid through diplomatic channels.

ARTICLE 17

In respect to unofficial acts, consuls are subject, in civil as well as in criminal matters, to the jurisdiction of the state where they exercise their functions.

ARTICLE 18

The official residence of the consuls and places used for the consulate's offices and archives are inviolable and in no case may the local authorities enter them without the permission of the consular agents;

neither shall they examine nor seize, under any pretext whatsoever, documents or other objects found in a consular office. No consular officer shall be required to present his official files before the courts or to make declaration with respect to their contents.

When consular agents are engaged in business within the territory of the state where they are exercising their duties, the files and documents of the consulate shall be kept in a place entirely separate from the one where private or business papers are kept.

ARTICLE 19

Consuls are obliged to deliver, upon the simple request of the local authorities, persons accused or condemned for crimes who may have sought refuge in the consulate.

ARTICLE 20

Consular agents, as well as the employees of the consulate who are nationals of the state appointing them, not engaged in business with purposes of gain, in the state where they perform their functions, shall be exempt from all national, state, provincial, or municipal taxes levied upon their person or property, except such taxes as may apply to the possession or ownership of real estate located in the state where discharging their duties or to the proceeds of the same. Consular agents and employees who are nationals of the state they represent, are exempt from taxes on the salaries, honorariums, or wages which they receive in return for their consular services.

ARTICLE 21

The employee who substitutes for the consular agent in his absence, or for another cause, shall enjoy during his temporary term of office the same immunities and prerogatives as the latter.

ARTICLE 22

Consuls engaged in business or exercising other functions apart from those pertaining to their consular duties are subject to local jurisdiction in all their activities not pertaining to the consular service.

SECTION III—*Suspension and termination of consular functions*

ARTICLE 23

Consular agents suspend their functions because of illness or leave of absence, and terminate their office:

- a) By death;
- b) By retirement, resignation, or dismissal; and
- c) By the cancellation of the exequatur.

ARTICLE 24

The present convention does not affect obligations previously undertaken by the contracting parties through international agreements.

ARTICLE 25

After being signed, the present convention shall be submitted to the ratification of the signatory states. The Government of Cuba is charged with transmitting authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, the Union to notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications. This convention shall remain open to the adherence of non-signatory states.

In witness whereof, the aforementioned plenipotentiaries sign the present convention in Spanish, English, French, and Portuguese, in the city of Habana, the 20th day of February, 1928.

Perú: JESÚS M. SALAZAR, VÍCTOR M. MAÚRTUA, LUIS ERNESTO DENEGRI, E. CASTRO OYANGUREN.

Uruguay: VARELA, PEDRO ERASMO CALLORDA.

Panamá: R. J. ALFARO, EDUARDO CHIARI.

Ecuador: GÓNZALO ZALDUMBIDE, VÍCTOR ZEVALLOS, C. E. ALFARO.

Mexico: JULIO GARCÍA, FERNANDO GONZÁLEZ ROA, SALVADOR URPIÑA, ÁQUILES ELORDUY.

Salvador: J. GUSTAVO GUERRERO, HÉCTOR DAVID CASTRO, ED. ALVAREZ.

Guatemala: CARLOS SALAZAR, B. ALVARADO, LUIS BELTRANENA, J. AZURDIA.

Nicaragua: CARLOS CUADRA PAZOS, MÁXIMO H. ZEPEDA, JOAQUÍN GÓMEZ.

Bolivia: JOSÉ ANTEZANA, A. COSTA DU R.

RESERVATION OF THE DELEGATION OF VENEZUELA

On behalf of the Government that I represent, I make a reservation with respect to the coincidence of diplomatic and consular functions in the same person, because it is totally opposed to our tradition, maintained since it was established until the present time, in a way that admits of no change.

Venezuela: SANTIAGO KEY AYALA, FRANCISCO G. YANES, RAFAEL ANGEL ARRAIZ.

Colombia: ENRIQUE OLAYA HERRERA, R. GUTIÉRREZ LEE, J. M. YEPES.

Honduras: F. DÁVILA, MARIANO VÁZQUEZ.

Costa Rica: RICARDO CASTRO BEECHE, J. RAFAEL OREAMUNO, A. TINOCO JIMÉNEZ.

Chile: ALEJANDRO LIRA, ALEJANDRO ALVAREZ, C. SILVA VILDÓSOLA, MANUEL BIANCHI.

Brazil: RAÚL FERNANDES, LINDOLFO COLLOR.

Argentina: LAURENTINO OLASCOAGA, FELIPE A. ESFIL, CARLOS ALBERTO ALCORTA.

Paraguay: LISANDRO DÍAZ LEÓN, JUAN VICENTE RAMÍREZ.

Haiti: FERNANDO DENNIS.

Dominican Republic: FRACO. J. PEYNADO, TULIO M. CESTERO, JACINTO R. DECASTRO, ELÍAS BRACHE, R. PÉREZ ALFONSECA.

United States of America: CHARLES EVANS HUGHES, NOBLE BRANDON JUDAH, HENRY P. FLETCHER, OSCAR W. UNDERWOOD, MORGAN J. O'BRIEN, JAMES BROWN SCOTT, RAY LYMAN WILBUR, LEO S. ROWE.

Cuba: ANTONIO S. DE BUSTAMANTE, ORESTES FERRARA, E. HERNÁNDEZ CARTAYA, ARÍSTIDES DE AGÜERO BETHENCOURT, M. MÁRQUEZ STERLING, NÉSTOR CARBONELL.

Treaty Series No. 845

*Convention Regarding Maritime Neutrality, Signed at Habana,
February 20, 1928*⁵⁹

The Governments of the Republics represented at the Sixth International Conference of American States, held in the city of Habana, Republic of Cuba, in the year 1928;

Desiring that, in case war breaks out between two or more states the other states may, in the service of peace, offer their good offices or mediation to bring the conflict to an end, without such an action being considered as an unfriendly act;

Convinced that, in case this aim cannot be attained, neutral states have equal interest in having their rights respected by the belligerents;

Considering that neutrality is the juridical situation of states which do not take part in the hostilities, and that it creates rights and imposes obligations of impartiality, which should be regulated;

Recognizing that international solidarity requires that the liberty of commerce should be always respected, avoiding as far as possible unnecessary burdens for the neutrals;

It being convenient, that as long as this object is not reached, to reduce those burdens as much as possible; and

In the hope that it will be possible to regulate the matter so that all interests concerned may have every desired guaranty;

⁵⁹ In English, Spanish, Portuguese, and French; English text, only, printed. Ratification advised by the Senate, with exception of section 3 of article 12, Jan. 28, 1932 (legislative day of Jan. 26, 1932); ratified by the President, with exception of section 3 of article 12, Feb. 6, 1932; ratification of the United States deposited with the Pan American Union, Mar. 22, 1932; proclaimed by the President, May 26, 1932.

Have resolved to formulate a convention to that effect and have appointed the following plenipotentiaries:

[Here follows list of names of plenipotentiaries.]

Who, after having presented their credentials, which were found in good and correct form, have agreed upon the following provisions:

SECTION I.—*Freedom of commerce in time of war*

ARTICLE 1

The following rules shall govern commerce in time of war:

1. Warships of the belligerents have the right to stop and visit on the high seas and in territorial waters that are not neutral any merchant ship with the object of ascertaining its character and nationality and of verifying whether it conveys cargo prohibited by international law or has committed any violation of blockade. If the merchant ship does not heed the signal to stop, it may be pursued by the warship and stopped by force; outside of such a case the ship cannot be attacked unless, after being hailed, it fails to observe the instructions given it.

The ship shall not be rendered incapable of navigation before the crew and passengers have been placed in safety.

2. Belligerent submarines are subject to the foregoing rules. If the submarine cannot capture the ship while observing these rules, it shall not have the right to continue to attack or to destroy the ship.

ARTICLE 2

Both the detention of the vessel and its crew for violation of neutrality shall be made in accordance with the procedure which best suits the state effecting it and at the expense of the transgressing ship. Said state, except in the case of grave fault on its part, is not responsible for damages which the vessel may suffer.

SECTION II.—*Duties and rights of belligerents*

ARTICLE 3

Belligerent states are obligated to refrain from performing acts of war in neutral waters or other acts which may constitute on the part of the state that tolerates them, a violation of neutrality.

ARTICLE 4

Under the terms of the preceding article, a belligerent state is forbidden:

a) To make use of neutral waters as a base of naval operations against the enemy, or to renew or augment military supplies or the armament of its ships, or to complete the equipment of the latter;

b) To install in neutral waters radio-telegraph stations or any other apparatus which may serve as a means of communication with its military forces, or to make use of installations of this kind it may have established before the war and which may not have been opened to the public.

ARTICLE 5

Belligerent warships are forbidden to remain in the ports or waters of a neutral state more than twenty-four hours. This provision will be communicated to the ship as soon as it arrives in port or in the territorial waters, and if already there at the time of the declaration of war, as soon as the neutral state becomes aware of this declaration.

Vessels used exclusively for scientific, religious, or philanthropic purposes are exempted from the foregoing provisions.

A ship may extend its stay in port more than twenty-four hours in case of damage or bad conditions at sea, but must depart as soon as the cause of the delay has ceased.

When, according to the domestic law of the neutral state, the ship may not receive fuel until twenty-four hours after its arrival in port, the period of its stay may be extended an equal length of time.

ARTICLE 6

The ship which does not conform to the foregoing rules may be interned by order of the neutral government.

A ship shall be considered as interned from the moment it receives notice to that effect from the local neutral authority, even though a petition for reconsideration of the order has been interposed by the transgressing vessel, which shall remain under custody from the moment it receives the order.

ARTICLE 7

In the absence of a special provision of the local legislation, the maximum number of ships of war of a belligerent which may be in a neutral port at the same time shall be three.

ARTICLE 8

A ship of war may not depart from a neutral port within less than twenty-four hours after the departure of an enemy warship. The one entering first shall depart first, unless it is in such condition as to warrant extending its stay. In any case the ship which arrived later has the right to notify the other through the competent local authority that within twenty-four hours it will leave the port, the one first

entering, however, having the right to depart within that time. If it leaves, the notifying ship must observe the interval which is above stipulated.

ARTICLE 9

Damaged belligerent ships shall not be permitted to make repairs in neutral ports beyond those that are essential to the continuance of the voyage and which in no degree constitute an increase in its military strength.

Damages which are found to have been produced by the enemy's fire shall in no case be repaired.

The neutral state shall ascertain the nature of the repairs to be made and will see that they are made as rapidly as possible.

ARTICLE 10

Belligerent warships may supply themselves with fuel and stores in neutral ports, under the conditions especially established by the local authority and in case there are no special provisions to that effect, they may supply themselves in the manner prescribed for provisioning in time of peace.

ARTICLE 11

Warships which obtain fuel in a neutral port cannot renew their supply in the same state until a period of three months has elapsed.

ARTICLE 12

Where the sojourn, supplying, and provisioning of belligerent ships in the ports and jurisdictional waters of neutrals are concerned, the provisions relative to ships of war shall apply equally:

1. To ordinary auxiliary ships;
2. To merchant ships transformed into warships, in accordance with Convention VII of The Hague of 1907.

The neutral vessel shall be seized and in general subjected to the same treatment as enemy merchantmen:

- a*) When taking a direct part in the hostilities;
- b*) When at the orders or under the direction of an agent placed on board by an enemy government;
- c*) When entirely freight-loaded by an enemy government;
- d*) When actually and exclusively destined for transporting enemy troops or for the transmission of information on behalf of the enemy.

In the cases dealt with in this article, merchandise belonging to the owner of the vessel or ship shall also be liable to seizure.

3. To armed merchantmen.⁶⁰

⁶⁰ Section 3 was excepted from ratification by the United States of America.

ARTICLE 13

Auxiliary ships of belligerents, converted anew into merchantmen, shall be admitted as such in neutral ports subject to the following conditions:

1. That the transformed vessel has not violated the neutrality of the country where it arrives;
2. That the transformation has been made in the ports of jurisdictional waters of the country to which the vessel belongs, or in the ports of its allies;
3. That the transformation be genuine, namely, that the vessel show neither in its crew nor in its equipment that it can serve the armed fleet of its country as an auxiliary, as it did before;
4. That the government of the country to which the ship belongs communicate to the states the names of auxiliary craft which have lost such character in order to recover that of merchantmen; and
5. That the same government obligate itself that said ships shall not again be used as auxiliaries to the war fleet.

ARTICLE 14

The airships of belligerents shall not fly above the territory or the territorial waters of neutrals if it is not in conformity with the regulations of the latter.

SECTION III.—*Rights and duties of neutrals*

ARTICLE 15

Of the acts of assistance coming from the neutral states, and the acts of commerce on the part of individuals, only the first are contrary to neutrality.

ARTICLE 16

The neutral state is forbidden:

- a) To deliver to the belligerent, directly or indirectly, or for any reason whatever, ships of war, munitions or any other war material;
- b) To grant it loans, or to open credits for it during the duration of war.

Credits that a neutral state may give to facilitate the sale or exportation of its food products and raw materials are not included in this prohibition.

ARTICLE 17

Prizes cannot be taken to a neutral port except in case of unseaworthiness, stress of weather, or want of fuel or provisions. When the cause has disappeared, the prizes must leave immediately; if

none of the indicated conditions exist, the state shall suggest to them that they depart, and if not obeyed shall have recourse to the means at its disposal to disarm them with their officers and crew, or to intern the prize crew placed on board by the captor.

ARTICLE 18

Outside of the cases provided for in Article 17, the neutral state must release the prizes which may have been brought into its territorial waters.

ARTICLE 19

When a ship transporting merchandise is to be interned in a neutral state, cargo intended for said country shall be unloaded and that destined for others shall be transhipped.

ARTICLE 20

The merchantman supplied with fuel or other stores in a neutral state which repeatedly delivers the whole or part of its supplies to a belligerent vessel, shall not again receive stores and fuel in the same state.

ARTICLE 21

Should it be found that a merchantman flying a belligerent flag, by its preparations or other circumstances, can supply to warships of a state the stores which they need, the local authority may refuse it supplies or demand of the agent of the company a guaranty that the said ship will not aid or assist any belligerent vessel.

ARTICLE 22

Neutral states are not obligated to prevent the export or transit at the expense of any one of the belligerents of arms, munitions and in general of anything which may be useful to their military forces.

Transit shall be permitted when, in the event of a war between two American nations, one of the belligerents is a mediterranean country, having no other means of supplying itself, provided the vital interests of the country through which transit is requested do not suffer by the granting thereof.

ARTICLE 23

Neutral states shall not oppose the voluntary departure of nationals of belligerent states even though they leave simultaneously in great numbers; but they may oppose the voluntary departure of their own nationals going to enlist in the armed forces.

ARTICLE 24

The use by the belligerents of the means of communication of neutral states or which cross or touch their territory is subject to the measures dictated by the local authority.

ARTICLE 25

If as the result of naval operations beyond the territorial waters of neutral states there should be dead or wounded on board belligerent vessels, said states may send hospital ships under the vigilance of the neutral government to the scene of the disaster. These ships shall enjoy complete immunity during the discharge of their mission.

ARTICLE 26

Neutral states are bound to exert all the vigilance within their power in order to prevent in their ports or territorial waters any violation of the foregoing provisions.

SECTION IV.—*Fulfilment and observance of the laws of neutrality*

ARTICLE 27

A belligerent shall indemnify the damage caused by its violation of the foregoing provisions. It shall likewise be responsible for the acts of persons who may belong to its armed forces.

ARTICLE 28

The present convention does not affect obligations previously undertaken by the contracting parties through international agreements.

ARTICLE 29

After being signed, the present convention shall be submitted to the ratification of the signatory states. The Government of Cuba is charged with transmitting authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, the Union to notify the signatory governments of said deposit. Such notifications shall be considered as an exchange of ratifications. This convention shall remain open to the adherence of non-signatory states.

In witness whereof, the aforementioned plenipotentiaries sign the present convention in Spanish, English, French, and Portuguese, in the city of Habana, the 20th day of February 1928.

Perú: JESÚS M. SALAZAR, VÍCTOR M. MAÚRTUA, LUIS ERNESTO DENEGRI, E. CASTRO OYANGUREN.

Uruguay: VARELA, PEDRO ERASMO CALLORDA.

Panamá: R. J. ALFARO, EDUARDO CHIARI.

Ecuador: GONZALO ZALDUMBIDE, VÍCTOR ZEVALLOS, C. E. ALFARO.

México: JULIO GARCÍA, FERNANDO GONZÁLEZ ROA, SALVADOR URBINA, AQUILES ELORDUY.

Salvador: J. GUSTAVO GUERRERO, HÉCTOR DAVID CASTRO, ED. ALVAREZ.

Guatemala: CARLOS SALAZAR, B. ALVARADO, LUIS BELTRANENA, J. AZURDIA.

Nicaragua: CARLOS CUADRA PAZOS, MÁXIMO H. ZEPEDA, JOAQUÍN GÓMEZ.

Bolivia: JOSÉ ANTEZANA, A. COSTA DU R.

Venezuela: SANTIAGO KEY AYALA, FRANCISCO G. YANES, RAFAEL ANGEL ARRAIZ.

Colombia: ENRIQUE OLAYA HERRERA, R. GUTIÉRREZ LEE, J. M. YEPES.

Honduras: F. DÁVILA, MARIANO VÁZQUEZ.

Costa Rica: RICARDO CASTRO BEECHE, J. RAFAEL OREAMUNO, A. TINOCO JIMÉNEZ.

RESERVATION OF THE DELEGATION OF CHILE

The delegation of Chile signs the present convention with a reservation concerning Article 22, paragraph 2.

Chile: ALEJANDRO LIRA, ALEJANDRO ALVAREZ, C. SILVA VILDÓSOLA, MANUEL BIANCHI.

Brazil: RAÚL FERNANDES, LINDOLFO COLLOR.

Argentina: LAURENTINO OLASCOAGA, FELIPE A. ESPIL, CARLOS ALBERTO ALCORTA.

Paraguay: LISANDRO DÍAZ LEÓN, JUAN VICENTE RAMÍREZ.

Haiti: FERNANDO DENNIS.

Dominican Republic: FRACO. J. PEYNADO, TULIO M. CESTERO, JACINTO R. DE CASTRO, ELÍAS BRACHE, R. PÉREZ ALFONSECA.

RESERVATION OF THE DELEGATION OF THE UNITED STATES OF AMERICA

The delegation of the United States of America signs the present convention with a reservation regarding Article 12, section 3.⁶¹

⁶¹The Argentine delegation proposed in committee amendments which it had suggested in subcommittee. One of these, to the effect that armed merchantmen should be assimilated to auxiliary vessels in the service of belligerents, was carried and forms the last sentence of article 12 of the convention. To this, the United States interposed a reservation, as did likewise Cuba and Uruguay. The convention was adopted in the plenary session of February 18, Chile and the United States expressly maintaining at the time of signing, their respective reservations (*Report of the Delegates of the United States of America to the Sixth International Conference of American States*, p. 19).

United States of America: CHARLES EVANS HUGHES, NOBLE BRANDON JUDAH, HENRY P. FLETCHER, OSCAR W. UNDERWOOD, MORGAN J. O'BRIEN, JAMES BROWN SCOTT, RAY LYMAN WILBUR, LEO S. ROWE.

RESERVATION OF THE DELEGATION OF CUBA

The delegation of the Republic of Cuba signs with a reservation in reference to Article 12, section 3.

Cuba: ANTONIO S. DE BUSTAMANTE, ORESTES FERRARA, E. HERNÁNDEZ CARTAYA, ARÍSTIDES DE AGÜERO BETHENCOURT, M. MÁRQUEZ STERLING, NÉSTOR CARBONELL.

Treaty Series No. 814

*Convention Regarding the Duties and Rights of States in the Event of Civil Strife, Signed at Habana, February 20, 1928*⁶²

The Governments of the Republics represented at the Sixth International Conference of American States, held in the city of Habana, Republic of Cuba, in the year 1928, desirous of reaching an agreement as to the duties and rights of states in the event of civil strife, have appointed the following plenipotentiaries:

[Here follows list of names of plenipotentiaries.]

Who, after exchanging their respective full powers, which were found to be in good and due form, have agreed upon the following:

ARTICLE 1

The contracting states bind themselves to observe the following rules with regard to civil strife in another one of them:

1. To use all means at their disposal to prevent the inhabitants of their territory, nationals or aliens, from participating in, gathering elements, crossing the boundary or sailing from their territory for the purpose of starting or promoting civil strife.

2. To disarm and intern every rebel force crossing their boundaries, the expenses of internment to be borne by the state where public order may have been disturbed. The arms found in the hands of the rebels may be seized and withdrawn by the government of the country granting asylum, to be returned, once the struggle has ended, to the state in civil strife.

3. To forbid the traffic in arms and war material, except when intended for the government, while the belligerency of the rebels

⁶² In English, Spanish, Portuguese, and French; English text, only, printed. Ratification advised by the Senate, subject to an understanding in regard to Article 3, Apr. 15, 1930 (legislative day of Apr. 14, 1930); ratified by the President, subject to an understanding in regard to Article 3, May 7, 1930; ratification of the United States deposited with the Pan American Union, May 21, 1930; proclaimed by the President, June 6, 1930.

has not been recognized, in which latter case the rules of neutrality shall be applied.

4. To prevent that within their jurisdiction there be equipped, armed or adapted for warlike purposes any vessel intended to operate in favor of the rebellion.

ARTICLE 2

The declaration of piracy against vessels which have risen in arms, emanating from a government, is not binding upon the other states.

The state that may be injured by depredations originating from insurgent vessels is entitled to adopt the following punitive measures against them: Should the authors of the damages be warships, it may capture and return them to the government of the state to which they belong, for their trial; should the damage originate with merchantmen, the injured state may capture and subject them to the appropriate penal laws.

The insurgent vessel, whether a warship or a merchantman, which flies the flag of a foreign country to shield its actions, may also be captured and tried by the state of said flag.

ARTICLE 3 ⁶³

The insurgent vessel, whether a warship or a merchantman, equipped by the rebels, which arrives at a foreign country or seeks refuge therein, shall be delivered by the government of the latter to the constituted government of the state in civil strife, and the members of the crew shall be considered as political refugees.

ARTICLE 4

The present convention does not affect obligations previously undertaken by the contracting parties through international agreements.

ARTICLE 5

After being signed, the present convention shall be submitted to the ratification of the signatory states. The Government of Cuba is charged with transmitting authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, the Union to notify the signatory

⁶³ Ratified on the part of the United States of America subject to the understanding that the provisions of article 3 thereof shall not apply where a state of belligerency has been recognized.

governments of said deposit. Such notification shall be considered as an exchange of ratifications. This convention shall remain open to the adherence of non-signatory states.

In witness whereof the aforementioned plenipotentiaries sign the present convention in Spanish, English, French, and Portuguese, in the city of Habana, the 20th day of February, 1928.

Perú: JESÚS M. SALAZAR, VÍCTOR M. MAÚRTUA, LUIS ERNESTO DENEGRI, E. CASTRO OYANGUREN.

Uruguay: VARELA, PEDRO ERASMO CALLORDA.

Panamá: R. J. ALFARO, EDUARDO CHIARI.

Ecuador: GONZALO ZALDUMBIDE, VÍCTOR ZEVALLOS, C. E. ALFARO.

México: JULIO GARCÍA, FERNANDO GONZÁLEZ ROA, SALVADOR URBINA, AQUILES ELORDUY.

Salvador: J. GUSTAVO GUERRERO, HÉCTOR DAVID CASTRO, ED. ALVAREZ.

Guatemala: CARLOS SALAZAR, B. ALVARADO, LUIS BELTRANENA, J. AZURDIA.

Nicaragua: CARLOS CUADRA PAZOS, MÁXIMO H. ZEPEDA, JOAQUÍN GÓMEZ.

Bolivia: JOSÉ ANTEZANA, A. COSTA DU R.

Venezuela: SANTIAGO KEY AYALA, FRANCISCO G. YANES, RAFAEL ANGEL ARRAIZ.

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Chile: ALEJANDRO LIRA, ALEJANDRO ALVAREZ, C. SILVA VILDÓSOLA, MANUEL BIANCHI.

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Paraguay: LISANDRO DÍAZ LEÓN, JUAN VICENTE RAMÍREZ.

Haiti: FERNANDO DENNIS.

Dominican Republic: FRACO. J. PEYNADO, TULIO M. CESTERO, JACINTO R. DE CASTRO, ELÍAS BRACHE, R. PÉREZ ALFONSECA.

United States of America: CHARLES EVANS HUGHES, NOBLE BRANDON JUDAH, HENRY P. FLETCHER, OSCAR W. UNDERWOOD, MORGAN J. O'BRIEN, JAMES BROWN SCOTT, RAY LYMAN WILBUR, LEO S. ROWE.

Cuba: ANTONIO S. DE BUSTAMANTE, ORESTES FERRARA, E. HERNÁNDEZ CARTAYA, ARÍSTIDES DE AGÜERO BETHENCOURT, M. MÁRQUEZ STERLING, NÉSTOR CARBONELL.

Unperfected Treaty No. J-10

*Convention Regarding the Pan American Union, Signed at Habana, February 20, 1928*⁶⁴

Their Excellencies the Presidents of the Republics of Perú, Uruguay, Panamá, Ecuador, Mexico, Salvador, Guatemala, Nicaragua, Bolivia, Venezuela, Colombia, Honduras, Costa Rica, Chile, Brazil, Argentina, Paraguay, Haiti, Dominican Republic, the United States of America and Cuba, through their respective plenipotentiary delegates, have agreed upon the following convention, which shall be signed in the manner provided for in the final article:

The American Republics, whose moral union rests on the juridical equality of the republics of the continent and on the mutual respect of the rights inherent in their complete independence, desirous of promoting efficaciously the increasing conciliation of their economic interests and coordination of their social and intellectual activities, and recognizing that relations between peoples are regulated by law as well as by their legitimate individual and collective interests;

Agree to continue their joint action of cooperation and solidarity by means of periodic meetings of the International Conferences of American States, as well as by means of organs established by virtue of international agreements, and through the Pan American Union which has its seat in Washington and whose organization and functions shall be regulated by the present convention, in the following terms:

ARTICLE 1—ORGANS OF THE UNION OF THE AMERICAN STATES

The Union of the American States strives for the fulfilment of its object through the following organs:

- a) The International Conference of American States;
- b) The Pan American Union under the direction of a Governing Board with its seat in the city of Washington;
- c) Every organ that may be established by virtue of conventions between the American states.

Each state enjoys, as of right, representation at the conferences and on the Governing Board.

ARTICLE 2—THE INTERNATIONAL CONFERENCES OF AMERICAN STATES

The conferences shall meet at periodic intervals. The Governing Board of the Pan American Union shall determine the date on which

⁶⁴ Contained in the final act signed Feb. 20, 1928. Ratification advised by the Senate, Feb. 28, 1931 (legislative day of Feb. 17, 1931); ratified by the President, Mar. 6, 1931; ratification of the United States deposited with the Pan American Union, Mar. 18, 1931. Convention not yet in force, since it requires ratification by all the Governments of the Pan American Union before entry into force.

they shall meet, provided that in no case shall a longer period than five years elapse between conferences, except in case of *force majeure*.

ARTICLE 3—GOVERNING BOARD

The government of the Pan American Union shall be vested in a Governing Board composed of the representatives that the American governments may appoint. The appointment may devolve upon the diplomatic representatives of the respective countries in Washington.

Besides his own country, a member of the Governing Board may serve as special representative of one or more countries, in which case such representative shall have as many votes as countries represented.

The Board shall elect its Chairman and Vice Chairman annually.

ARTICLE 4—EXECUTIVE OFFICERS

The Governing Board shall appoint the following officers:

A Director General, who shall have charge of the administration of the Pan American Union, with power to promote its most ample development in accordance with the terms of this convention, the regulations and the resolutions of the Board, to which body he shall be responsible.

The Director General shall attend, in an advisory capacity, the meetings of the Governing Board, of the committees appointed by the Board, and of the International Conferences of American States for the purpose of giving such information as may be required. The necessary expenses shall be paid out of the funds of the Pan American Union.

An Assistant Director, who shall act as secretary of the Governing Board.

The Director General shall prepare the internal regulations by which the various divisions of the Pan American Union shall be governed, in accordance with the provisions of the present convention, and shall submit them to the Governing Board for approval.

The Director General shall present to the Governing Board annually, at the regular session of the Board in November, a detailed budget for the ensuing fiscal year.

The Director General shall submit to the consideration of each conference of the American Republics a detailed report on the work carried out by the Pan American Union during the period preceding the meeting of the conference.

The Director General shall appoint, with the approval of the Governing Board, the personnel necessary to the work of the Pan American Union, endeavoring as far as possible to distribute the positions among nationals of the countries members of the Union.

ARTICLE 5—MAINTENANCE OF THE PAN AMERICAN UNION

The Governing Board of the Pan American Union shall determine the quota which is to be paid by each of the governments members of the Union for the maintenance of the Pan American Union. But increases in the budget of the Pan American Union exceeding by more than twenty-five per cent the budget of the preceding year shall be approved by the unanimous vote of the Governing Board, the representatives being given time to consult their respective governments. The quota shall be determined on the basis of the latest official statistics of population in possession of the Pan American Union on the first day of July of each year. The budget shall be communicated to the governments members of the Union before the first day of the ensuing calendar year, with an indication of the quota which each country shall pay, such payments to be made before the first of July of that year.

The Governing Board shall elect from among its members a committee charged with examining, on the dates determined by the Board, the accounts of the expenditures of the Union, in conformity with the provisions established by the regulations and the opinion of three experts to be appointed for the purpose.

ARTICLE 6—FUNCTIONS OF THE PAN AMERICAN UNION

Both the Governing Board and the Pan American Union shall discharge the duties assigned by this convention subject to the condition that they shall not exercise functions of a political character.

The functions of the Pan American Union are:

1. To compile and distribute information and reports concerning the commercial, industrial, agricultural, social, and educational development as well as the general progress of the American Republics.

2. To compile and classify information referring to the conventions and treaties concluded among the American Republics and between these and other states, as well as to the legislation of the former.

3. To assist in the development of commercial, industrial, agricultural, social, and cultural relations, the study of the problems of labor and the furtherance of a more intimate mutual acquaintance between the American Republics.

4. To act as a Permanent Commission of the International Conferences of American States; to keep their records and archives; to assist in obtaining ratification of the treaties and conventions; to carry out and facilitate the execution of the resolutions adopted by the International Conferences of American States, within the limits of its powers; and to prepare in agreement with the governments the program of the International Conferences of American States, and submit to the conferences a project of regulations.

5. To perform such other functions entrusted to it by the Conference or by the Governing Board, by virtue of the powers conferred upon it by this convention. Whenever a state believes that its vital

interests are involved in a question, or that an obligation may thereby be imposed upon it, such state may require that the resolution of the Board be adopted by unanimous vote.

6. The Governing Board may promote the meeting of international conferences of experts to study problems of a technical character of common interest to the countries members of the Union, and to this end may request the governments to appoint experts to represent them at these conferences, which shall meet at the place and time determined by the Board.

To carry out the purposes for which the institution is organized the Governing Board shall provide for the establishment of such administrative divisions or sections within the Pan American Union as it may deem necessary.

ARTICLE 7—DEPOSIT AND EXCHANGE OF RATIFICATIONS

The instruments of ratification of the treaties, conventions, protocols, and other diplomatic documents signed at the International Conferences of American States shall be deposited at the Pan American Union by the respective representative on the Governing Board, acting in the name of his government, without need of special credentials for the deposit of the ratification. A record of the deposit of the ratification shall be made in a document signed by the representative on the Board of the ratifying country, by the Director General of the Pan American Union, and by the Secretary of the Governing Board.

The Pan American Union shall communicate to all the states members of the Union, through their representatives on the Board, the deposit of the ratification.

ARTICLE 8—COMMUNICATION OF OFFICIAL DOCUMENTS TO THE PAN AMERICAN UNION

The governments of the countries members of the Union shall transmit to the Pan American Union two copies of the official documents and publications which relate to the purposes of the Union, as far as the internal legislation of the respective countries may permit.

ARTICLE 9—COOPERATION BETWEEN OFFICIAL PAN AMERICAN ORGANIZATIONS

For the purpose of coordinating the results of the work of other official Pan American organizations, and of establishing relations of close cooperation between them, the program of work and the development of their activities shall, as far as possible, be the subject of agreement between their directive bodies and the Governing Board of the Pan American Union.

The governments members of the Union which may not have an efficient organ for the study and investigation of Pan American affairs, shall establish a committee composed of persons of experience in such matters, or an office attached to the ministry of foreign affairs entrusted with Pan American affairs.

These committees or offices shall have the following duties:

a) To cooperate with their respective governments to obtain ratification of treaties and conventions, and to the carrying out of the agreements adopted by the International Conferences of American States;

b) To furnish the Pan American Union promptly with the information it may need in the preparation of its work;

c) To present to the Union through the proper channels such projects as they may consider useful to the purposes of the Union.

ARTICLE 10

The Governing Board of the Pan American Union shall prepare the regulations and fix the status of the members of the staff, determining their salaries and conditions of retirement.

ARTICLE 11

All correspondence and matter transmitted through the mails to the Pan American Union, which bears the frank used by the Union, and all correspondence or matter transmitted by the Pan American Union, shall be carried free of charge by the mails of the American Republics.

ARTICLE 12

The contracting states may withdraw from the Pan American Union at any time, but shall pay their respective quotas for the period of the current fiscal year.

ARTICLE 13

This convention can not be modified except in the same manner in which it was adopted.

ARTICLE 14

The present convention shall be ratified by the signatory states, and is open to the signature and ratification of the states represented at the Conference that may not have been able to sign.

The President of the Conference, through the Government of the Republic of Cuba, shall send to the governments represented at the Conference an authenticated copy of the present project of convention in order that, if the governments approve, it may receive their adhesion. For this purpose, the governments that adhere to the conven-

tion shall authorize their respective diplomatic or special representatives in the city of Habana to sign the convention. All the states having signed, the convention shall be submitted by each government for ratification.

The present convention shall become effective when all the states represented at the Conference receive notice that all the ratifications have been deposited with the Pan American Union, and that the adhesions and ratifications of the twenty-one American Republics have been received.

In witness whereof, the delegates sign and affix their seals to the present convention.

Perú: JESÚS M. SALAZAR, VÍCTOR M. MAÚRTUA, LUIS ERNESTO DE-NEGRI, E. CASTRO OYANGUREN.

Uruguay: VARELA, PEDRO ERASMO CALLORDA.

Panamá: R. J. ALFARO, EDUARDO CHIARI.

Ecuador: GONZALO ZALDUMBIDE, VÍCTOR ZEVALLOS, C. E. ALFARO.

México: JULIO GARCÍA, FERNANDO GONZÁLES ROA, SALVATOR UR-BINA, AQUILES ELORDUY.

Salvador: J. GUSTAVO GUERRERO, HÉCTOR DAVID CASTRO, ED. AL-VAREZ.

Guatemala: CARLOS SALAZAR, B. ALVARADO, LUIS BELTRANENA, J. AZURDIA.

Nicaragua: CARLOS CUADRA PAZOS, MÁXIMO H. ZEPEDA, JOAQUÍN GÓMEZ.

Bolivia: JOSÉ ANTEZANA, A. COSTA DU R.

Venezuela: SANTIAGO KEY AYALA, FRANCISCO G. YANES, RAFAEL ANGEL ARRAIZ.

Colombia: ENRIQUE OLAYA HERRERA, R. GUTIÉRREZ LEE, J. M. YEPES.

Honduras: F. DÁVILA, MARIANO VÁZQUEZ.

Costa Rica: RICARDO CASTRO BEECHIE, J. RAFAEL OREAMUNO, A. TINOCO JIMÉNEZ.

Chile: ALEJANDRO LIRA, ALEJANDRO ALVAREZ, C. SILVA VILDÓSOLA, MANUEL BIANCHI.

Brazil: RAÚL FERNANDES, LINDOLFO COLLOR.

DECLARATION OF THE DELEGATION OF ARGENTINA

The Argentine delegation declares, pursuant to express instructions of its Government, that it approves and will sign the project of convention; but that it now wishes to formulate the reservation that it regrets that the economic principles which it upheld in the committee have not been included in this convention.

Argentina: LAURENTINO OLASCOAGA, FELIPE A. ESPIL, CARLOS ALBERTO ALCORTA.

Paraguay: LISANDRO DÍAS LEÓN, JUAN VICENTE RAMÍREZ.

Haiti: FERNANDO DENNIS.

Dominican Republic: FRACO. J. PEYNADO, TULIO M. CESTERO, JACINTO R. DE CASTRO, ELÍAS BRACHE, R. PÉREZ ALFONSECA.

United States of America: CHARLES EVANS HUGHES, NOBLE BRANDON JUDAH, HENRY P. FLETCHER, OSCAR W. UNDERWOOD, MORGAN J. O'BRIEN, JAMES BROWN SCOTT, RAY LYMAN WILBUR, LEO S. ROWE.

Cuba: ANTONIO S. DE BUSTAMANTE, ORESTES FERRARA, E. HERNÁNDEZ, CARTAYA, ARÍSTIDES DE AGÜERO BETHENCOURT, M. MÁRQUEZ STERLING, NÉSTOR CARBONELL.

INTERNATIONAL CONFERENCE OF AMERICAN STATES ON CONCILIATION AND ARBITRATION, HELD AT WASHINGTON, DECEMBER 10, 1928, TO JANUARY 5, 1929; PRELIMINARY ARRANGEMENTS⁶⁵

710.1012 Washington/18

*The Secretary of State to the Ambassador in Brazil (Morgan)*⁶⁶

No. 1364

WASHINGTON, April 14, 1928.

SIR: On February 18, 1928, the republics represented at the Sixth International Conference of American States at Habana, Cuba,⁶⁷ passed a resolution, a copy of which is enclosed,⁶⁸ declaring in favor of obligatory arbitration for the pacific settlement of international differences of a juridical nature. They also resolved to meet in Washington within the period of one year in a conference of conciliation and arbitration to draw up a convention for the realization of this principle with the minimum exceptions which they consider indispensable to safeguard the independence and sovereignty of states, as well as domestic questions, and also including matters relating to the interest or referring to the action of a state not a party to the convention.

The United States Government will be pleased to invite the other Governments of the Pan American Union to send delegates to such a conference. It is suggested that the conference be called to meet in Washington on December 10, 1928. This date will give ample time for the various countries to formulate their plans and prepare for the conference. The resolution further provides that each of the countries shall be represented at the conference by plenipotentiary juriconsults with instructions regarding the maximum and the minimum which the nations they represent would accept with regard

⁶⁵ For the proceedings of the Conference, see *Proceedings of the International Conference of American States on Conciliation and Arbitration, Held at Washington, December 10, 1928-January 5, 1929* (Washington, Government Printing Office, 1929).

⁶⁶ The same, *mutatis mutandis*, on the same date, to the chiefs of missions in Chile (No. 834), Cuba (No. 125), Haiti (No. 818), Mexico (No. 252), Paraguay (No. 417), Uruguay (No. 129), and Venezuela (No. 1237).

⁶⁷ See pp. 527 ff.

⁶⁸ For text of resolution, see circular telegram, June 19, to the chiefs of diplomatic missions in Latin America, p. 637.

to obligatory arbitral jurisdiction. I suggest that not more than two delegates be named by each country. You are instructed to inform the Government of Brazil of these suggestions and to inquire if they are acceptable to that Government.

On the subject of conciliation you are undoubtedly aware that a Treaty to Avoid or Prevent Conflicts Between the American States (commonly known as the Gondra Treaty) was signed at Santiago, Chile, on May 3, 1923, by sixteen republics parties to the Pan American Union; ⁶⁹ viz., the United States, Cuba, Haiti, the Dominican Republic, Guatemala, Honduras, Nicaragua, Panama, Colombia, Venezuela, Brazil, Ecuador, Chile, Paraguay, Uruguay and Argentina. It was subsequently signed by Mexico. To date it has been ratified by the following states and the ratifications duly deposited at Santiago, Chile,—the United States, Mexico, Cuba, Chile, Haiti, Venezuela, Brazil and Paraguay. The information available to the Department indicates that the following nations have ratified the treaty but have not yet officially deposited their ratifications—Guatemala, Panama and Uruguay.

On March 29, 1928, at the invitation of the Acting Secretary of State, the diplomatic representatives of Uruguay, Panama and Colombia, as the three diplomatic agents longest accredited before this Government, met in the Department of State and organized the Permanent Commission to be established at Washington in accordance with Article III of this Treaty.⁷⁰ The Minister of Uruguay was chosen as Chairman of this Commission.

The Gondra Treaty, similar to the Bryan Treaty which the United States has concluded with about eighteen countries,⁷¹ would seem to cover questions of conciliation; and, as you are probably aware, the last Pan American Conference adopted a resolution, a copy of which is enclosed, requesting all states parties to the Pan American Union to ratify this Treaty as quickly as possible.

I desire you confidentially and discreetly to obtain such information as may be possible with regard to the attitude of the Brazilian Government on the question of arbitration and conciliation. Brazil has ratified the Gondra Treaty and it would therefore seem as though that subject has been properly taken care of; but the Department desires to know the attitude of the Government of Brazil with regard to the arbitration of juridical questions.

I am [etc.]

FRANK B. KELLOGG

⁶⁹ *Foreign Relations*, 1923, vol. I, p. 308.

⁷⁰ See pp. 644 ff.

⁷¹ For Bryan treaties for the advancement of general peace, see *Foreign Relations*, 1914, index, p. 1130; 1915, index, p. 1328; 1916, index, p. 1007.

710.1012 Washington/21

*The Secretary of State to the Ambassador in Argentina (Bliss)*⁷²

No. 71

WASHINGTON, April 14, 1928.

SIR: [Here follow five paragraphs, the same, *mutatis mutandis*, as the first five paragraphs in instruction No. 1364, April 14, 1928, to the Ambassador in Brazil, printed *supra*.]

I desire you confidentially and discreetly to obtain such information as may be possible with regard to the attitude of the Argentine Government on the question of arbitration and conciliation. I also desire that you informally and discreetly suggest to the Government of Argentina that, as the Gondra Treaty has been signed and ratified by a majority of the countries members of the Pan American Union, it would be a decided step forward on the subject of conciliation if the Gondra Treaty could become effective as to all the countries members of the Pan American Union before the conference meets in Washington next December. This would leave the subject of arbitration for primary consideration at the conference. You may informally state to the Government of Argentina that the United States Government sincerely hopes that the Government of Argentina will see its way to ratify the Gondra Treaty and deposit ratification thereof at Santiago, Chile, before the conference.

I am [etc.]

FRANK B. KELLOGG

710.1012 Washington/24

The Chargé in Cuba (Curtis) to the Secretary of State

No. 219

HABANA, April 30, 1928.

[Received May 3.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 125 of April 14, 1928,⁷³ requesting the Embassy to ascertain from the Cuban Government whether the suggestions therein advanced by the Department in relation to the conference, which is to take place in Washington in conformity with the Resolution of February 18, 1928 on the subject of obligatory arbitration for the pacific settlement of international differences of a juridical nature, are acceptable to that Government. The matter was informally broached to the Secretary of State on April 25 who, after consultation

⁷² The same, *mutatis mutandis*, on the same date, to the chiefs of missions in Bolivia (No. 346), Colombia (No. 1057), Costa Rica (No. 447), Dominican Republic (No. 239), Guatemala (No. 1070), Honduras (No. 250), Nicaragua (No. 346), Panama (No. 631), Peru (No. 432), and Salvador (No. 124). A similar instruction was sent to the mission in Ecuador on May 9, 1928 as No. 586.

⁷³ See footnote 66, p. 621.

on the subject; orally replied on the 28th that the date of December 10, 1928, suggested by the Department for the convening of the conference, is agreeable to the Cuban Government. The recommendation is likewise acceptable that not more than two delegates shall be named by each country.

As to the attitude of the Cuban Government towards the subject of arbitration and conciliation, when the recommendations of the Department were brought to his attention, Secretary Martínez Ortiz remarked that in principle he is favorable to arbitration provided local laws are adequately safe-guarded. Anything that can be done towards making war more unlikely is worthwhile in his opinion. He added, in effect, that Cuba would, as the Embassy knows, accord with the United States in such matters—not alone because it is its desire to adjust its foreign policy to that of the United States, but also because the United States sees so clearly with regard to subjects involving the preservation of peace, as, for example, is evidenced in the recent arbitration negotiations with France.

Perhaps more significant than the above remarks, since the neutral character of the audience imposes no necessity for polite phraseology, are the words which the Secretary of State will use in a discourse at the annual meeting of the Cuban Society of International Law to be held on May 7. In translation he will say on that occasion:

["We have purposely left for the end of this synthetic outline of the work of the Sixth Conference some of the resolutions adopted on matters of great difficulty which today have the attention of the entire world, and in regard to which up to the present time the nations have not been able to find a satisfactory solution. One is obligatory arbitration. The following was resolved:

(Here follows the text of the resolution on obligatory arbitration.)

There is nothing more transcendental than what has been mentioned, this having, nevertheless, been taken up in a high spirit of conciliation and of hope for reaching the desired goal. Let us hope that during the coming year and as a consequence of the resolution transcribed, a definite step forward may be taken toward universal peace, or at least peace among the most cultured nations of the world, and that it shall be our America which, for its own glory, shall achieve the final success in that which constitutes the coming hope of humanity."

With regard to the Cuban attitude on the Gondra Treaty, as the Department observes, Cuba's ratification of the Treaty would seem to speak for itself. Moreover, while the Secretary of State ventured no remarks relative to Cuba's position on the Treaty, it is believed that his favorable observations concerning any agreement which leads to the preservation of amity between the nations may be interpreted as equally applicable to the Gondra Treaty.

I have [etc.]

C. B. CURTIS

710.1012 Washington/30

The Minister in Honduras (Summerlin) to the Secretary of State

No. 594

TEGUCIGALPA, May 5, 1928.

[Received May 16.]

SIR: I have the honor to refer to the Department's instruction No. 250 of April 14, 1928⁷⁴ relative to a conference of Pan American states planned to be held at Washington in December next for the purpose of drawing up a convention of conciliation and arbitration. In reply to representations relative to this matter made to the Government of Honduras, I have received a reply, under date of May 5, in which the Minister for Foreign Affairs states that the Government of Honduras is in perfect accord with the suggestions made by the Government of the United States in regard to the projected Conference and that it will participate therein and will take all necessary steps for its official representation.

I may add that it will unfortunately not be possible for Honduras to ratify the treaty known as the Gondra Treaty before the Conference meets in December, for the necessary power for ratification rests with the National Congress which will not convene again before January 1, 1929.

I have [etc.]

GEORGE T. SUMMERLIN

710.1012 Washington/32

The Minister in Panama (South) to the Secretary of State

No. 1700

PANAMA, May 8, 1928.

[Received May 19.]

SIR: I have the honor to report that, pursuant to the Department's instruction No. 631 of April 14, 1928,⁷⁴ I pointed out to the Panaman Minister of Foreign Affairs in conversation yesterday the interest felt by my Government in having the Gondra treaty become effective as to all countries members of the Pan American Union before the proposed conference of conciliation and arbitration met at Washington at the end of this year. The Foreign Minister replied that this would be done, so far as Panama was concerned, and added that he had already mailed his Government's ratification of the treaty to Santiago for deposit with the Government of Chile.

With regard to the attitude of the Panaman Government toward arbitration and conciliation, I believe that there is no doubt whatever of Panama's readiness to adhere to the proposed convention

⁷⁴ See footnote 72, p. 623.

on these subjects. Panama is a small nation. One of her international boundaries is in dispute and the other has not been delimited. Her boundary question with Costa Rica is of a serious and involved character.⁷⁶ In my opinion, Panama would not only consent to submit this question to arbitration, but would also welcome an opportunity of becoming a party to such a convention for the purpose of submitting thereunder, if possible, another question which has been agitated by the present administration, namely, the sovereignty of the Panama Canal.

I have [etc.]

J. G. SOUTH

710.1012 Washington/49

The Chargé in Uruguay (Gade) to the Secretary of State

No. 620

MONTEVIDEO, May 10, 1928.

[Received June 8.]

SIR: In compliance with the Department's instruction No. 129 of April 14, 1928,⁷⁷ I have the honor to report that I today presented to the Minister for Foreign Affairs a note concerning the proposed Conference of Arbitration and Conciliation to be held at Washington on December 10, 1928.

In a conversation with the Chief of Protocol (*Director de Secciones e Introductor de Embajadores*) before my interview with the Minister for Foreign Affairs, Sr. Yeregui volunteered the information that the Department's proposals would surely receive a hearty acceptance as Uruguay was unreservedly in favor of arbitration. He further declared that Uruguay had up to now refused to conclude arbitration treaties which contained reservations, even on matters of sovereignty.

The Minister for Foreign Affairs, Sr. Dominguez, upon receiving the note stated that Uruguay was in favor of the principle of arbitration and that an early answer might be expected.

I have [etc.]

GERHARD GADE

710.1012 Washington/34

The Minister in the Dominican Republic (Young) to the Secretary of State

No. 885

SANTO DOMINGO, May 11, 1928.

[Received May 23.]

SIR: I have the honor to acknowledge receipt of the Department's instruction No. 239 of April 14, 1928⁷⁸ relative to the Conference of Conciliation and Arbitration to be held in Washington, and to enclose herewith a copy of the Legation's note to the Foreign Office⁷⁹ inform-

⁷⁶ See *Foreign Relations*, 1926, vol. I, pp. 539 ff.

⁷⁷ See footnote 66, p. 621.

⁷⁸ See footnote 72, p. 623.

⁷⁹ Not printed.

ing it of the suggestions therein contained and inquiring if they are acceptable to the Dominican Government.

The Minister of Foreign Affairs, Mr. Sanchez, has informally expressed the opinion that the suggestions as to the date of the conference and the size of the delegations will be acceptable to his Government. In conversation with him concerning the proposed conference, I endeavored discreetly to obtain information as to the attitude of the Dominican Government on the question of arbitration and conciliation. Without hesitation Mr. Sanchez informed me that in his opinion the Dominican Government should be unreservedly committed to arbitration and conciliation, first, because of the constitutional provision that the powers instituted by the Constitution cannot declare war without previously proposing arbitration and that to secure this principle clauses relative to the solution of all differences by means of arbitration must be inserted in all international treaties entered into by the Republic (Article 100 of the Constitution of 1927), and second, because the physical position of the Dominican Republic makes arbitration and conciliation essential. He added that he believed that the Dominican delegation to the forthcoming conference should have instructions enabling them to concede the maximum with regard to obligatory arbitral jurisdiction.

During the above-mentioned conversation I referred to the Gondra Treaty. Mr. Sanchez stated that he was unaware of any particular opposition to the treaty and said that it is probably among those which have been submitted to Congress but not acted on, or which through carelessness have never been submitted to the Congress. In discussing the provisions of this treaty Mr. Sanchez volunteered the observation, that its ratification might opportunely precede the conference at Washington, which gave me an opportunity to indicate the sincere hope of my Government that ratification might be effected before the conference.

Minister Sanchez assured me that he would submit the various suggestions raised to the President and promptly advise me of the Government's attitude thereon.

I have [etc.]

EVAN E. YOUNG

710.1012 Washington/36

The Chargé in Peru (Hanna) to the Secretary of State

No. 955

LIMA, May 14, 1928.

[Received May 31.]

SIR: With reference to the Department's instruction No. 432 of April 14, 1928,⁸⁰ regarding preliminary arrangements for the proposed meeting of American States at Washington in a conference of con-

⁸⁰ See footnote 72, p. 623.

ciliation and arbitration, I have the honor to report that the Department's suggestions are now being considered by the Peruvian Government.

The Minister of Foreign Affairs called me to the Foreign Office a few days ago and told me that President Leguia is pleased with the Department's suggestions for the date when the conference is to assemble and the maximum number of delegates to be named by each country. He also told me that President Leguia is disposed to adhere to the Gondra Treaty and present it for ratification shortly after the Peruvian Congress assembles in the latter part of July. Dr. Rada y Gamio intimated that the Peruvian Government might request the Department's assistance in connection with depositing the ratifications with the Government of Chile, with which it has no official relations, and he also mentioned the fact that his government does not possess a properly authenticated copy of the treaty for submission to the Peruvian Congress. I understand he will discuss these points with President Leguia and inform the Embassy of the latter's wishes in regard thereto when making formal reply to the Embassy's note. I will add that Dr. Maurtua told me recently that Dr. Rada y Gamio had conferred with him concerning the ratification of the Gondra Treaty and that I could be assured that it would be ratified, probably in August.

I have not yet been able to obtain more than an impression concerning the attitude of the Peruvian Government on the question of arbitration and conciliation. Something may be deduced from the speech of Dr. Rada y Gamio forwarded with my despatch No. 945,⁶¹ in which he contrasted Peru's past attitude on this question with that of Chile. I will quote the following extracts in translation:

"Peru has always been a supporter of international arbitration without limitations of any form. In the history of arbitration, we have without doubt a very distinguished place.

"In the First Conference in Washington arbitration was considered. The Committee on general welfare proposed the conclusion of a uniform arbitration treaty. In the general plan it was agreed that the Republics of North, Central, and South America should adopt arbitration as a principle of international law for the solution of controversies which might arise between two or more of said Republics, and that arbitration was obligatory in all differences referring to diplomatic and consular privileges, frontiers, territories, indemnities, rights of navigation, and the validity, interpretation, and execution of treaties. Questions which could imperil the independence of States were excluded and optional (*facultativo*) arbitration was prescribed for them. The arbitration agreed upon was retroactive (*retrospectivo*). Peru raised the banner of arbitration on high and without

⁶¹ Not printed.

limitations. Chile opposed arbitration of this nature so far as it was possible for her to do so.

"In the Second International American Conference in Mexico, the noble and progressive Argentine nation, through her delegation, proposed obligatory arbitration for certain rules which comprised all the possible origins of a *casus belli*. She said she could repeat what she said to Chile in 1872 and to Colombia in 1880: 'With treaties or without them, the Argentine Government is determined to end all international questions by arbitration.'

"The Chilean delegation at that conference was opposed to obligatory arbitration. On the other hand, the Peruvian delegation stated that 'the stability of institutions and peace between the Republics of America were the two cardinal necessities, and that nothing could be done to promote the material progress of these countries if measures were not adopted beforehand to assure internal order in the young American nations, clarifying with frankness and energy the causes of misunderstanding, imaginary affronts, restlessness, and latent or active struggles which exist or may occur among them'; and the delegation concluded by defending with vigor the principle of obligatory arbitration in its most ample form.

"In the Habana Conference . . . the debate on obligatory arbitration gave rise to a clash between the Chilean and Peruvian theses, the first being presented by Alejandro Lira, President of the Chilean delegation, and the second by Dr. Victor M. Maurtua, a member of the Peruvian delegation. Lira supported a general thesis, pleading for restricted compulsory (*coactivo restrictivo*) arbitration. Maurtua, in conformity with the policy of Peru, supported the principle of compulsory and extensive (*coactivo y amplio*) arbitration.

"Obligatory arbitration, as it triumphed in the International American Conference in Habana, may be cited as a means for settling international differences of a juridical nature. The resolution approved is as follows: (The resolution is then quoted)."

When I saw Dr. Rada y Gamio and presented the Department's suggestions concerning the proposed conference, he took occasion to express in the warmest terms his great admiration for Secretary Kellogg's efforts to negotiate a multilateral treaty restricting war,⁸² and said that this initiative in the cause of world peace filled him with joy. He asserted that Mr. Kellogg is interpreting the most profound aspiration of the world at the present time and, whatever the immediate outcome, is giving force and expression to a current of public opinion which eventually will be irresistible. And then he added, in reply to an inquiry from me, that this would exert a beneficial effect in creating a favorable atmosphere for the proposed conference.

I have [etc.]

MATTHEW E. HANNA

⁸² See pp. 1 ff.

710.1012 Washington/38

The Chargé in Haiti (Gross) to the Secretary of State

No. 1013

PORT AU PRINCE, *May 16, 1928.*

[Received June 5.]

SIR: I have the honor to refer to the Department's Despatch No. 818, dated April 4 [14], 1928,⁸⁴ informing the Legation of the favorable action taken by the Republics represented at the Sixth International Conference of American States on the question of obligatory arbitration for the pacific settlement of international differences, and instructing the Legation to inform the Government of Haiti of the suggestion of the United States Government to invite the other Governments of the Pan-American Union to send delegates to a conference of conciliation and arbitration, suggested to be held in Washington on December 10, 1928, to draft a convention for the realization of this principle.

In reply I have the honor to inform the Department that President Borno has informed me verbally that he would be pleased to appoint delegates should such a conference take place for the purposes suggested; that the delegates could be instructed beforehand; but stated that he could not be certain this far ahead that Haitian Jurisconsults would be available as delegates.

In compliance with the request contained in the last paragraph of the Department's instruction, I have the honor to inform the Department that President Borno has expressed himself to me verbally as in favor not only of the principle of arbitration of juridical questions, but also in favor of the arbitration of questions involving national honor.

I have [etc.]

C. GROSS

710.1012 Washington/68

The Minister in Paraguay (Kreeck) to the Secretary of State

No. 550

ASUNCIÓN, *May 17, 1928.*

[Received June 21.]

SIR: I have the honor to reply to the Department's instruction No. 417 of April 14, 1928,⁸⁴ concerning the approaching conference for the consideration of obligatory arbitration in accordance with the resolution passed at the Sixth International Conference of American States at Habana.

The Government of Paraguay is thoroughly in accord with the suggestions of the Secretary of State, that the conference be called to

⁸⁴ See footnote 66, p. 621.

meet in Washington on December 10, 1928, and that not more than two delegates be named by each country.

The Minister of Foreign Affairs talked very freely concerning the conference and gave me the opportunity discreetly to ascertain his views regarding the attitude of his Government to the arbitration of juridical questions. Paraguay believes that all questions of whatever nature, that might arise as potential causes of war should be considered obligatory of arbitration. He mentioned Paraguay's question with Bolivia, concerning limits,⁸⁵ and said, "It is, as you know, purely a juridical question, yet it would come under the terms of such a treaty." Conversation continued in which the Tacna-Arica question⁸⁶ was mentioned, and here again he maintained the difference was such a juridical question that a treaty of conciliation and arbitration should be applicable, although he thought that Chile would oppose such a suggestion, while possessing belief in, and expressing agreeableness to, arbitration.

Much study has been given the subject of arbitration by the Minister, and he is very much interested in the coming conference. He is of the opinion that the Gondra Treaty will take care of conciliation questions, but that such a treaty is secondary in importance to one of arbitration.

I have [etc.]

GEO. L. KREECK

710.1012 Washington/70

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 679

MANAGUA, May 24, 1928.

[Received June 22.]

SIR: In response to the Department's instruction No. 346 of April 14, 1928,⁸⁷ regarding the proposed Conference of Conciliation and Arbitration which is to meet in Washington in December of this year, I have the honor to report that President Diaz states that the suggestions of the Department are entirely acceptable to his Government and that two delegates to the Conference referred to will be appointed in due course.

The Gondra Treaty was submitted to the Congress by Dr. Cuadra Pasos, at that time Minister for Foreign Affairs, immediately after his return from the Havana Conference. The Congress did not however act upon the treaty before its adjournment, and there will probably be no opportunity for its ratification until after December 15, when the next regular session convenes.

⁸⁵ See pp. 672 ff.

⁸⁶ See pp. 660 ff.

⁸⁷ See footnote 72, p. 623.

I have discussed informally with the President the attitude of the Nicaraguan Government on the question of arbitration and conciliation, but I have been unable to learn that either he or the Ministry for Foreign Affairs have any very definite ideas on this subject. It is my impression that the present administration would follow the lead of the United States Government in any policy which the latter might adopt. It must be remembered, however, that a new administration will come into office on January 1, while the Conference will presumably still be in session, and that it is impossible to prophesy at this time what the attitude of the new president will be.

I have [etc.]

CHARLES C. EBERHARDT

710.1012 Washington/39

The Minister in Honduras (Summerlin) to the Secretary of State

No. 616

TEGUCIGALPA, May 24, 1928.

[Received June 5.]

SIR: With further reference to the Department's instruction No. 250 of April 14, 1928⁸⁸ and to my despatch No. 594 of May 5, 1928, relative to a conference of Pan American states planned to be held at Washington in December next for the purpose of drawing up a convention of conciliation and arbitration, I have the honor to report that the Minister for Foreign Affairs has informed me his Government is in favor of the arbitration of international differences. He stated further that this has been for many years the traditional policy of his country.

I have [etc.]

GEORGE T. SUMMERLIN

710.1012 Washington/46

The Minister in Guatemala (Geissler) to the Secretary of State

No. 1946

GUATEMALA, May 24, 1928.

[Received June 7.]

SIR: With reference to the Department's instruction 1080 [1070] of April 14, 1928,⁸⁸ I have the honor to make the following report, regarding the attitude of the Government of Guatemala concerning the proposed Pan American Conference of Conciliation and Arbitration, to be held at Washington.

On May 9, I had a conversation with Minister for Foreign Affairs Salazar, in the course of which I handed him a brief Memorandum, a copy of which is enclosed,⁸⁹ requesting that I be informed whether

⁸⁸ See footnote 72, p. 623.

⁸⁹ Not printed.

the suggestions, that the Conference be called to meet on December 10, 1928, and that not more than two delegates be named by each country, are acceptable to Guatemala. I beg leave to transmit, with translation, a copy of a Memorandum, in which Mr. Salazar expresses the acceptance of the Government.⁶⁰

In the conversation referred to, I made informal inquiry regarding Guatemala's procedure in the matter of the Gondra Treaty. The Minister for Foreign Affairs said, that he would look into the status of that Convention. He has since said to me, orally, that the ratification will be sent to the Government of Chile, probably by the end of the current month.

Mr. Salazar, in the course of our discussion of the subject, indicated, that he considers that ratification of the Gondra Treaty, by most of the countries members of the Pan American Union, would seem to go far toward supplying a method of conciliation, if not indeed quite as far as it might be practicable to go. As regards the proposed Convention of Arbitration, he did not express any specific ideas.

In the course of a week or two, I shall inquire informally, what has been done regarding the depositing of Guatemala's ratification of the Gondra Treaty.

I have [etc.]

ARTHUR H. GEISSLER

710.1912 Washington/66

The Ambassador in Chile (Collier) to the Secretary of State

No. 1399

SANTIAGO, May 29, 1928.

[Received June 20.]

SIR: I have the honor to inform you that yesterday I arranged for a special meeting with the Minister of Foreign Affairs and discussed quite fully many pending matters including Chile's views with regard to conciliation and arbitration and the probable action of its delegates at the conference to be held at Washington in December next. The Minister said that in determining the reservations that it would have to make as to arbitration, Chile was influenced by the Tacna-Arica question; that if that matter were out of the way he would be disposed to agree to accept "the most ample arbitration"; that it was somewhat difficult to find a formula that would exclude Tacna-Arica without mentioning it, and that to mention it might be embarrassing. I asked if he thought it possible to except it by a provision that the future treaty should not bind one to accept a new arbitration of any question already submitted to arbitration. He thought that was possible. He told me that in Chile's recent treaty with Italy,⁶¹ copy of which he promised to send me . . . there were very

⁶⁰ Not printed.

⁶¹ Treaty of Feb. 24, 1927; League of Nations Treaty Series, vol. LXIX, p. 277.

ample provisions for the settlement of disputed questions by arbitration or conciliation; that, in fact, there was a provision that if either country believed that justice in a certain matter was not being administered in the local tribunals, the question could be carried before an international tribunal. The Minister said that he felt that he had perhaps gone too far in accepting this provision; that it was too much of a limitation of sovereignty; that he doubted if Chile would consent to such provisions in treaties with other countries. As soon as a copy of this treaty can be obtained by me I will send it to you.

Incidentally, the Minister referred to the improved temperament of the Peruvian Government towards Chile, mentioning the fact that, in a recent address, Leguia, for the first time, had refrained from making remarks offensive to Chile. The Minister assured me that no formal conversations between Peru and Chile were yet under way and that there had been so far no negotiations towards a commercial treaty. Nevertheless, he admitted that he and the Minister of the Treasury had had a long talk with Señor Maurtua during his recent visit and that naturally there was some reference to the economic interests of the two countries.

I have [etc.]

WM. MILLER COLLIER

710.1012 Washington/55

The Minister in the Dominican Republic (Young) to the Secretary of State

No. 915

SANTO DOMINGO, June 4, 1928.

[Received June 13.]

SIR: Having further reference to the Department's instruction No. 239, April 14, 1928,⁹² in regard to the conference which is to be held at Washington this year on conciliation and arbitration, and supplementing the Legation's despatch No. 885, May 11, 1928, I have the honor to report that in a recent conference with me the Minister of Foreign Affairs stated that from the records of the Foreign Office it appears that the Gondra Treaty was never submitted to the Dominican Congress for approval. The Minister said confidentially that if the present boundary negotiations with Haiti reach a successful conclusion⁹³ the treaty will be submitted to the Congress at its next session which convenes on August 16.

Mr. Sanchez again stated that he was fully in sympathy with the purposes of the proposed Washington conference and that he will press for the ratification of the Gondra Treaty so soon as the boundary question is adjusted.

⁹² See footnote 72, p. 623.

⁹³ See pp. 706 ff.

The Department will recall in this connection the refusal of the Dominican Government last year to enter into a treaty of friendship and amity with Haiti, as proposed by President Borno, outlawing war between the two countries. The reasons underlying the attitude of the Dominican Government in the matter were reported in the Legation's confidential despatch No. 648, October 8, 1927.⁹⁴

The Legation has not yet received a final reply to its Note of May 10, 1928 to the Foreign Office, in regard to the coming conference at Washington. Mr. Sanchez has assured me verbally, however, that the suggestions of the Department in regard to the conference are entirely agreeable to the Dominican Government and that the Foreign Office is merely awaiting the written authority of President Vasquez before apprising me formally to that effect.

I have [etc.]

EVAN E. YOUNG

710.1012 Washington/71

The Minister in Salvador (Caffery) to the Secretary of State

No. 1190

SAN SALVADOR, June 8, 1928.

[Received June 22.]

SIR: Referring to my telegram No. 48 of June 6, 1928,⁹⁵ concerning the acceptance by the Salvadorean Government of the Department's suggestions in relation to the holding of the Conference of Arbitration and Conciliation, and referring again to the Department's instruction No. 124 of April 14, 1928,⁹⁶ on that subject, I have the honor to report that President Romero Bosque has informally expressed to me his intention of submitting the Gondra Treaty to the National Assembly for its ratification. He told me also that he approved of the resolution of the Havana Conference declaring in favor of obligatory arbitration for the pacific settlement of international differences of a juridical nature, and that he sympathized with the Department's efforts for furthering the principle of international conciliation.

I have [etc.]

JEFFERSON CAFFERY

710.1012 Washington/50 : Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

[Paraphrase]

MEXICO, June 8, 1928—1 p. m.

[Received 7:45 p. m.]

153. Referring to the Department's circular telegram dated June 6, 11 a. m.,⁹⁷ I was informed today by the Acting Minister for Foreign

⁹⁴ *Foreign Relations*, 1927, vol. I, p. 350.

⁹⁵ Not printed.

⁹⁶ See footnote 72, p. 623.

⁹⁷ Not printed; it requested the missions in Latin America to report whether the suggestion as to the date of the Conference was acceptable to the respective Governments.

Affairs that the Government of Mexico had no objection to holding the Conciliation and Arbitration Conference at Washington on December 10, 1928. The Acting Minister also indicated that the Government of Mexico found acceptable the suggestion as to naming two jurisconsults to represent it.

With regard to the last paragraph of the Department's instruction No. 252, April 14,⁹⁸ in which inquiry was made as to the attitude of the Government of Mexico regarding obligatory arbitration of juridical questions, Señor Estrada stated that this subject was being given a very thorough study, but he indicated that the Government of Mexico had little confidence in the efficacy of obligatory arbitration in disputes between Mexico and a more powerful country. The Government of Mexico felt that such treaties substantially restricted their freedom of action in such disputes. While it was understood that the suggested obligatory arbitration applied only to juridical questions, nevertheless such questions could easily assume a political color, and in such event the United States, for example, always had the advantage. These expressions of the Acting Minister for Foreign Affairs were entirely informal, but I think they accurately represent the present attitude of the Government of Mexico toward the question of obligatory arbitration of juridical questions. Upon further study of the purposes of the Conference they may be modified.

SCHOENFELD

710.1012 Washington/61 : Telegram

The Minister in Bolivia (Kaufman) to the Secretary of State

LA PAZ, June 14, 1928—3 p. m.

[Received 8:37 p. m.]

26. Ministry of Foreign Relations assures me that President has decreed that Bolivia's adherence to Gondra Treaty be notified to Santiago immediately and that ratification will be given by Congress convening August 6. Ministry also assures me that the President will decree Bolivia's adherence to International Radio Convention⁹⁹ within a few days and that pending ratification by Congress in August Standard Oil will have provisional permit to proceed with the wireless installation.¹ I have received from the Minister of Foreign Affairs formal note stating that Bolivian Government is pleased with suggestions outlined in the Department's instruction of April 14, 1928² regarding Conciliation Conference adopted Sixth Pan Ameri-

⁹⁸ See footnote 66, p. 621.

⁹⁹ *Foreign Relations*, 1927, vol. I, p. 288.

¹ See pp. 1018 ff.

² See footnote 72, p. 623.

can Conference and reiterates its adherence to the principles of arbitration and conciliation and that the date of December 10, 1928 is very satisfactory.

KAUFMAN

710.1912 Washington/76

The Minister in the Dominican Republic (Young) to the Secretary of State

No. 920

SANTO DOMINGO, June 14, 1928.

[Received June 26.]

SIR: Adverting to the Department's instruction No. 239 of April 14, 1928,³ and confirming the Legation's telegram No. 37 of even date, twelve noon,⁴ I have the honor to report that the Dominican Government has signified its complete agreement with the suggestions of the Department, in the instruction under reference, concerning the Conference of Conciliation and Arbitration to be held in Washington. There is attached hereto a translation of the note from the Foreign Office informing the Legation of the Government's attitude.⁴

I have [etc.]

EVAN E. YOUNG

710.1012 Washington/67: Circular telegram

The Secretary of State to the Chiefs of Diplomatic Missions in Latin America

WASHINGTON, June 19, 1928—3 p. m.

Please deliver the following communication textually to the Minister for Foreign Affairs:

"I have the honor to invite Your Excellency's attention to a resolution passed at the Sixth International Conference of American States at Habana, Cuba, on February 18, which reads as follows:

Resolution: The Sixth International Conference of American States resolves:

Whereas: The American Republics desire to express that they condemn war as an instrument of national policy in their mutual relations; and

Whereas: The American Republics have the most fervent desire to contribute in every possible manner to the development of international means for the pacific settlement of conflicts between States:

1. That the American Republics adopt obligatory arbitration as the means which they will employ for the pacific solution of their international differences of a juridical character.

2. That the American Republics will meet in Washington within the period of one year in a conference of conciliation and arbitration to give conventional form to the realization of this principle, with the minimum exceptions which they may consider indispensable to safeguard the independence and sovereignty

³ See footnote 72, p. 623.

⁴ Not printed.

of the States, as well as matters of a domestic concern, and to the exclusion also of matters involving the interest or referring to the action of a State not a party to the convention.

3. That the Governments of the American Republics will send for this end plenipotentiary juriconsults with instructions regarding the maximum and the minimum which they would accept in the extension of obligatory arbitral jurisdiction.

4. That the convention or conventions of conciliation and arbitration which may be concluded should leave open a protocol for progressive arbitration which would permit the development of this beneficent institution up to its maximum.

5. That the convention or conventions which may be agreed upon, after signature, should be submitted immediately to the respective Governments for their ratification in the shortest possible time.'

As, under the terms of this resolution the Conference must be held within one year, it gives me great pleasure, in accordance therewith, to extend a cordial invitation to Your Excellency's Government to participate in a conference on conciliation and arbitration to be held in Washington commencing on December 10, 1928.

While not desiring in any way to limit the discretion of the various countries as to their representation, I venture to suggest that each Government appoint two plenipotentiary juriconsults, with such advisers and experts as they may desire, to represent it at this conference. In this connection I am pleased to inform Your Excellency that the United States will be represented at the said conference by the Secretary of State and the Honorable Charles Evans Hughes. (Signed) Frank B. Kellogg."

KELLOGG

710.1012 Washington/94

The Ambassador in Argentina (Bliss) to the Secretary of State

No. 325

BUENOS AIRES, June 27, 1928.

[Received July 18.]

SIR: In acknowledging the receipt of the Department's instruction No. 71 of April 14 last, relative to the conference of conciliation and arbitration it is proposed to hold at Washington next December, I have the honor to report that I called on the Minister for Foreign Affairs the day following the receipt of the instruction and handed him a note (copy enclosed),⁵ acquainting him with the Department's suggestions and inquiring if they were acceptable to the Argentine Government.

At the same time, I spoke of the so-called Gondra Treaty and the importance the United States Government attached to its ratification and the deposit thereof at Santiago, by the signatory Powers which had not yet done so, before the conference should meet in Washington. Dr. Gallardo said he fully understood that point of view and would make a renewed effort to obtain ratification by Congress before which body it had remained for five years without action being taken. Although one party had now a majority in the Chamber of Deputies, the Minister said, and the Argentine Government, throughout its history,

⁵ Not printed.

had approved arbitration as a method of settling international disputes, he was not sanguine of obtaining ratification.

On June 5 the Embassy received a note from the Minister (copy and translation enclosed)^{5a} stating that the Argentine Government would designate two Argentine juriconsults to participate in the conference.

The note did not mention whether the date proposed by the Department was acceptable. On receipt, therefore, the following day, of the Department's circular telegram of June 6, 11 a. m.,⁶ I telephoned the Foreign Office to clear up this point and was subsequently informed that the date was acceptable and that Dr. Carlos Alberto Alcorta and Dr. Luis A. Podestá Costa would represent Argentina at the Conference (see my telegram No. 40 of June 8, 6 p. m.).⁷

Today I am in receipt of an answer from the Minister for Foreign Affairs to the note addressed him in compliance with the Department's unnumbered telegraphic instruction of June 19, 3 p. m. Doctor Gallardo's note (copy and translation enclosed)⁷ accepts the Secretary's invitation and confirms the notification of the appointment of Dr. Alcorta and Dr. Podestá Costa.

I have [etc.]

ROBERT WOODS BLISS

710.1012 Washington/82

The Minister in Costa Rica (Davis), Temporarily in Washington, to the Secretary of State

WASHINGTON, July 3, 1928.

SIR: Referring to the Department's instruction No. 447, dated April 14, 1928,⁸ with reference to the forthcoming conference of conciliation and arbitration provided for in a resolution adopted at the Sixth International Conference of American States, I have the honor to report as follows:

While in San José, en route from the Guatemalan-Honduran Boundary Conference⁹ to Washington, I conferred briefly with the Costa Rican Minister for Foreign Affairs relative to the conciliation and arbitration conference. He stated that Costa Rica would be pleased to cooperate at the conference and that he is under the impression that Costa Rica will give favorable consideration to conciliation and arbitration proposals, provided these proposals stipulate that questions previously submitted to arbitration cannot be made the subject of

^{5a} Not printed.

⁶ Not printed; it requested the missions in Latin America to report whether the suggestion as to the date of the Conference was acceptable to the respective Governments.

⁷ Not printed.

⁸ See footnote 72, p. 623.

⁹ See pp. 723, ff.

arbitration under any general treaty of arbitration that may be drawn up at the conference.

This reservation was made because of the fact that the Costa Rican-Panamanian boundary controversy which was submitted to arbitration by the Chief Justice of the Supreme Court of the United States and decided in favor of Costa Rica has not been accepted by Panama.¹⁰ The Costa Rican Government will not sign an arbitration convention which will offer Panama an opportunity to again open the question.

I mentioned the "Gondra Treaty" to the Minister for Foreign Affairs and stated that I was under the impression that it contained a clause which will satisfy the Costa Rican Government on the point raised by him.

On account of the fact that I departed immediately for the United States, I did not have an opportunity to follow up my conversation but will do so immediately upon my return to San José.

I have [etc.]

ROY T. DAVIS

710.1012 Washington/99

The Ambassador in Brazil (Morgan) to the Secretary of State

No. 3029

RIO DE JANEIRO, July 7, 1928.

[Received July 26.]

SIR: Referring to the correspondence between the Department and this Mission, beginning with instruction No. 1364, of April 14 last, and in amplification of Embassy's telegram No. 28, of July 5, 3 P. M.¹¹ I have the honor to enclose, in Portuguese and English, copies of the note which the Brazilian Minister for Foreign Affairs addressed to this office on July 3.¹²

In accepting the invitation to be represented at the Conference on Conciliation and Arbitration which is called to convene in the city of Washington on December 10 next, the Brazilian Government states that two lawyers versed in international law, with plenipotentiary powers, will be accredited as its representatives.

In regard to Brazil's attitude relative to the arbitration of judicial matters, a personal note which the Minister addressed to me on July 2 states:¹³

"Article 34 of the Constitution of the Republic establishes, among the exclusive powers of the National Congress, that under No. 11.

¹⁰ See *Foreign Relations*, 1914, pp. 993 ff.

¹¹ Latter not printed.

¹² Not printed.

¹³ This English translation and the Portuguese text of the note were arranged in parallel columns; the Portuguese text has been omitted.

which is couched in the following terms: 'to authorize the Government to declare war, if recourse to arbitration does not occur or collapses, and to declare peace'.

"Brazil, therefore, as regards arbitration, is already bound by a constitutional provision. She will be able to adopt, therefore, in order to duly observe them, the most complete or the most ample forms which may be proposed thereon. She is ready, nevertheless, to yield, should it become necessary to do so, to intermediate solutions which may result in congregating without constraint, in complete fraternity, so advisable in the spirit of Pan American meetings, the States of the continent."

I have [etc.]

EDWIN V. MORGAN

710.1012 Washington/95

The Chargé in Venezuela (Engert) to the Secretary of State

No. 1640

CARACAS, July 9, 1928.

[Received July 19.]

SIR: Referring to the Legation's telegram No. 61 of June 21, 1 p. m.,¹⁴ I have the honor to report that the Legation has today received a Note from the Foreign Office, No. 1249 [1250], dated July 9, with which there was enclosed an unsealed envelope addressed to The Honorable Frank B. Kellogg, Secretary of State, Washington, D. C.^{14a}

The Legation is informed that it contains the official reply from the Minister of Foreign Affairs, Doctor P. Itriago Chacín, to the Secretary's invitation that Venezuela be represented at the Conference of Conciliation and Arbitration which is to meet in Washington beginning December 10, 1928.

At a recent interview I had with the Minister of Foreign Affairs in connection with other matters he remarked quite spontaneously: "I wish you would tell Mr. Kellogg how very gladly the Venezuelan Government accepted his invitation to participate in the proposed Conference in Washington. We are firm believers in arbitration and conciliation and shall never forget the conspicuous example the United States have set in that respect and how helpful you have been to us in the past when our international relations were troubled. President Gomez and the Venezuelan people also approve heartily of Mr. Kellogg's epoch-making plan to outlaw War and we sincerely hope he will succeed."

The envelope for the Secretary of State is transmitted herewith.

I have [etc.]

C. VAN H. ENGERT

¹⁴ Not printed.

^{14a} The note, likewise addressed to the Secretary of State, has not been printed.

710.1012 Washington/93

The Secretary of State to the Minister in Ecuador (Bading)

No. 593

WASHINGTON, July 12, 1928.

SIR: As the Legation is aware, circular instructions regarding invitations to foreign governments have not been carried out in respect to Ecuador due to the nonrecognition of the present regime in that country.¹⁵ In view, however, of the Department's circular telegram of June 19, 1928, instructing you to deliver to the Ecuadoran Government the invitation quoted therein to participate in a conference on conciliation and arbitration to be held in Washington commencing December 10, 1928, you may in future deliver or extend all invitations received by the Legation under circular instructions bearing dates subsequent to the date of the circular telegram above mentioned, as well as the invitation to foreign governments to be represented at the International Conference on Civil Aeronautics communicated in circular instruction Diplomatic Serial No. 728 of June 18, 1928.¹⁶ Other circular instructions regarding the extension of invitations dated prior to June 19, 1928, may be disregarded.

I am [etc.]

FRANK B. KELLOGG

710.1012 Washington/119

The Chargé in Colombia (Matthews) to the Secretary of State

No. 1415

BOGOTÁ, September 29, 1928.

[Received October 20.]

SIR: I have the honor to refer to the Department's instruction No. 1057 of April 14, 1928,¹⁷ with reference to the forthcoming Conference of Conciliation and Arbitration and to report thereon as follows:

Mr. Piles¹⁸ several times before his departure took up with the Minister for Foreign Affairs the subject matter of the instruction under reference but was unable to obtain any definite information as to the steps which the Colombian Government might take or its probable attitude towards the conference other than the assurance that Colombia would be officially represented thereat.

I took occasion to have a conversation on the subject with the Minister for Foreign Affairs on September 27th and reiterated the hope of the United States Government that the Government of Colombia will see its way to ratify the Gondra treaty and deposit

¹⁵ *De jure* recognition was extended to the regime of Dr. Ayora on August 14, 1928; see vol. II, pp. 742 ff.

¹⁶ Not printed. For the proceedings of the conference, see *International Civil Aeronautics Conference, Washington, D. C., December 12-14, 1928, Proceedings of the Conference* (Washington, Government Printing Office, 1929).

¹⁷ See footnote 72, p. 623.

¹⁸ Samuel H. Piles, retiring American Minister in Colombia.

ratification thereof at Santiago, Chile, before the conference. Dr. Uribe told me that he considered it highly important for Colombia to ratify the aforesaid treaty and intended to present it to Congress in the coming week. He said that he had presented it last year but could arouse little interest therein and that it consequently died in committee. He feels, however, that the chances of obtaining its ratification in the present Congress are good. Up to the present, he informed me, the Colombian delegates to the conference have not been decided upon nor have any instructions been drawn up.

I have been endeavoring to ascertain informally and discreetly the views of the Colombian Government on the general question of arbitration and conciliation and of the probable nature of its instructions to its delegates. My efforts have met with but little success and the one definite impression I have gained is that there is at present little interest in the forthcoming conference and little faith in conventions on arbitration and conciliation. . . .

I have [etc.]

H. FREEMAN MATTHEWS

710.1012 Washington P 43/73 : Telegram

The Ambassador in Chile (Culbertson) to the Secretary of State

SANTIAGO, October 13, 1928—noon.

[Received 2 p. m.]

114. Department's instruction No. 834, April 14, 1928;¹⁹ and Department's circular of August 16, 11 p. m.²⁰ Chilean Government officially accept invitation and notify as delegates Chilean Ambassador in Washington and Manuel Foster Recas, distinguished Chilean attorney.

Note of acceptance avers that:

"It is a great pleasure for me to add that Chile has always vigorously supported the progress of arbitration in America which should now be applied as a general rule to the questions susceptible to this treatment, while particular cases of considerable importance should be submitted to special arbiters."

CULBERTSON

710.1012 Washington/118 : Telegram

The Minister in Uruguay (Grant-Smith) to the Secretary of State

MONTEVIDEO, October 19, 1928—10 a. m.

[Received 10:40 a. m.]

32. Your instruction No. 129, April 14 last.¹⁹ The Under Secretary for Foreign Affairs informed me yesterday that the attitude of the

¹⁹ See footnote 66, p. 621.

²⁰ *Ante*, p. 149.

Uruguayan Government relative to the arbitration of juridical questions would be the same as at the Rio de Janeiro Conference. The delegate[s] would be named shortly and would go from here.

GRANT-SMITH

ESTABLISHMENT OF PERMANENT COMMISSIONS UNDER TREATY TO
AVOID OR PREVENT CONFLICTS BETWEEN THE AMERICAN STATES,
SIGNED MAY 3, 1923 (GONDRA TREATY)

710.1012 Commission/1

The Secretary of State to the Colombian Minister (Olaya) ²²

WASHINGTON, March 2, 1928.

SIR: By Article 3 of the Treaty to avoid or prevent conflicts between the American States, signed on May 3, 1923, at the Fifth International Conference of American States, held in Santiago, Chile, a copy of which I enclose for your ready convenience,²³ it is stipulated that the two Permanent Commissions provided for in the Treaty, shall be established with their seats at Washington and at Montevideo, and that they shall be composed of the three American diplomatic agents longest accredited in those capitals, who, at the call of the foreign offices of the United States of America and Uruguay, shall organize and appoint their respective chairmen.

Inasmuch as this treaty has been ratified by the United States of America, Brazil, Cuba, Haiti, Mexico, Paraguay and Venezuela, and is now in force as between those Governments, I have the honor, in fulfillment of the duty entrusted to me by the Treaty, to invite you, as one of the three senior American accredited diplomatic agents residing in Washington, to meet with the two other senior American diplomatic agents at this capital, Mr. J. Varela, Minister of Uruguay, and Señor Doctor Ricardo J. Alfaro, Minister of Panama, who have been similarly invited, for the purpose of organizing the Permanent Commission having its seat at Washington provided for in the Treaty. I shall be obliged if I may be informed of the action taken on this request.

I understand that the Minister of Foreign Affairs of the Government of Uruguay is similarly inviting the three senior American diplomatic agents accredited to that Government for the organization of the other Commission provided for in the Treaty, to have its seat at Montevideo.

Accept [etc.]

[File copy not signed]

²² The same, *mutatis mutandis*, on the same date, to the Panaman Minister and the Uruguayan Minister.

²³ *Foreign Relations*, 1923, vol. 1, p. 303.

710.1012 Commission/7

*The Acting Secretary of State to the Colombian Minister (Olaya)*WASHINGTON, *March 26, 1928.*

SIR: I have the honor to acknowledge the receipt of your note No. 258 of March 13, 1928,²⁴ wherein, with reference to the Secretary of State's note of March 2, 1928, you state that, as one of the three American diplomatic agents longest accredited at Washington, you are ready at any time that may be agreeable, to meet with Dr. J. Varela, Minister of Uruguay, and Señor Dr. Don Ricardo J. Alfaro, Minister of Panama, the other two, for the purpose of organizing, and appointing the Chairman of, the Permanent Commission with its seat at Washington, provided for in Article 3 of the Treaty to avoid or prevent conflicts between the American States, signed on May 3, 1923, at the Fifth International Conference of American States.

A similar willingness having been expressed by Dr. J. Varela, Minister of Uruguay, and understanding that Señor Dr. Don Ricardo J. Alfaro, Minister of Panama, who is absent from this country, has deputized Señor Don Juan B. Chevalier, Chargé d'Affaires ad interim of Panama at Washington, to represent him at the meeting, I have the honor to invite your and their attendance at my office in the Department of State on Thursday, March 29, at eleven o'clock A. M. for the purposes above stated.

A like note is being addressed to Dr. Varela and to Señor Chevalier.
Accept [etc.]

ROBERT E. OLDS

710.1012 Commission/10

Report of a Meeting Between the Minister of Uruguay, the Minister of Colombia, and the Chargé d'Affaires ad Interim of Panama in the Office of the Acting Secretary of State on March 29, 1928, at 11 a. m.

Mr. Olds informed the Minister of Uruguay, the Minister of Colombia and the Chargé d'Affaires ad interim of Panama that he had invited them to meet in order that they might organize the Permanent Commission to be established at Washington in accordance with Article III of the Treaty to Avoid or Prevent Conflicts Between the American States, signed at Santiago, Chile, on May 3, 1923, which Commission was to be composed of the three American diplomatic agents longest accredited in Washington. It was understood that the Chargé d'Affaires ad interim of Panama was representing the Minister of Panama by the latter's consent, Dr. Alfaro being at the present time on leave of absence in Panama

²⁴ Not printed.

On the nomination of Dr. Olaya, seconded by Dr. Chevalier, Dr. Varela was appointed Chairman of the Commission.

It was decided that the Chairman should notify the State Department of any changes made in the personnel of the Commission caused by the termination of the mission of one of the members and the assumption of his place on the Commission by another diplomatic agent.

The meeting then adjourned.

R[OBERT] E. O[LDS]

710.1012 Commission/18

The Uruguayan Minister (Varela) to the Secretary of State

No. 824

WASHINGTON, December 7, 1928.

SIR: With reference to your note of March 2, 1928, I have the honor to inform you that my Government advises me that in accordance with the provisions of Article 3 of the Treaty to avoid or prevent conflicts between the American States, signed on May 3, 1923, at the Fifth International Conference of American States, held in Santiago, Chile, the Permanent Commission having its seat at Montevideo has been established and is composed by the Minister of Mexico, the Minister of Peru and the Minister of Chile. The Minister of Mexico was elected Chairman of the Permanent Commission.

I beg you to accept [etc.]

J. VARELA

710.1012 Commission/19

The Secretary of State to the Uruguayan Minister (Varela)

WASHINGTON, December 22, 1928.

SIR: I have the honor to acknowledge the receipt of your note of December 7, 1928, by which I am gratified to learn that the Permanent Commission to have its seat at Montevideo, in accordance with the provisions of Article 3 of the Treaty to Avoid or Prevent Conflicts between the American States, signed at Santiago, Chile, on May 3, 1923, has been established.

Thanking you for your transmission of this information, of which due note has been taken, I avail myself [etc.]

For the Secretary of State:

FRANCIS WHITE

GOOD OFFICES OF THE UNITED STATES IN THE REESTABLISHMENT
OF DIPLOMATIC RELATIONS BETWEEN CHILE AND PERU

701.2325/14a

The Secretary of State to President Coolidge

WASHINGTON, July 9, 1928.

DEAR MR. PRESIDENT: You will remember I informed you that the Chilean and Peruvian delegations at Habana²⁵ had in a very friendly spirit discussed the question of a settlement of the Tacna-Arica matter.²⁶ They had concluded that the first step was for the two countries to renew diplomatic relations. These delegations agreed that when they returned home they would talk with their respective governments and prepare to press for such a movement. I waited several months to make sure that there had been created a proper sentiment for such a step. I then inquired definitely of the Chilean and Peruvian Governments if they would be willing to renew diplomatic relations and exchange ministers. I received prompt assurance from President Leguia that he would be willing to exchange ministers if I proposed it but did not care to take the initiative. I also received positive assurances from the Chilean Government, through its Ambassador. I then concluded to send a note to each Government suggesting the renewal of diplomatic relations and the exchange of ministers. I enclose you a copy of one of the notes.²⁷

In several conversations which President Leguia has had with Ambassador Moore and with Mr. Hanna, the Chargé d'Affaires before Ambassador Moore's arrival, Leguia has shown a much greater disposition to settle the Tacna-Arica difficulty than ever before. In fact, he suggested to me a proposition which I have not yet taken up with Chile and which is an advance over anything that he has heretofore agreed upon. I have also had reports from the Chilean Ambassador here that indicate a greater disposition in Chile to adjust the matter than ever before. If we can get them to exchange ministers I shall then take up again the question of settlement and I hope very much that settlement can be arranged before I go out of office.

I am sending this on for your information. I did not suppose you would care to be bothered about the details.

Faithfully yours,

FRANK B. KELLOGG

²⁵ See "Sixth International Conference of American States," etc., pp. 527 ff.

²⁶ See pp. 660 ff.

²⁷ See telegram No. 44 to the Ambassador in Chile, *infra*.

701.2325/7c : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, July 9, 1928—1 p. m.

44. Please present the following note to the Foreign Minister. I am sending this note because of the assurances which I have received from the Chilean Ambassador in the United States that Chile would be willing to accredit a diplomatic representative to the Government of Peru, and because of the Peruvian President's assurances that he would be willing to accredit a diplomatic representative to the Government of Chile. At the same time, I am sending a note in exactly the same form to the Foreign Minister of Peru. These communications will not be made public until replies have been received from both Governments.

Please present this note in person to the Foreign Minister, and impress upon him, and, if the opportunity arises, also upon the President, the importance of an unconditional and friendly acceptance of this suggestion, and particularly that the answer should carefully avoid the reopening of discussions in regard to the Tacna-Arica question or the inclusion of any matter of a controversial nature. The same representations are being made to the Government of Peru.²⁸

“Excellency:

During the last few months I have been most gratified to observe the mutual growth of a more friendly feeling between Chile and Peru which is a tribute to the high-minded statesmanship of both Governments and an evidence of the desire of the people of both countries to establish a basis of cordial and permanent understanding.

I am sure that Your Excellency understands that I have given the most careful consideration to find a way that my Government and I may be of the greatest service to these Governments. After long and careful deliberation I have now come to the conclusion that an accommodation of mutual interests would be promoted should the Governments of Chile and Peru reestablish diplomatic relations through the appointment of diplomatic representatives at Lima and at Santiago. I feel confident that such a reestablishment of diplomatic relations is consistent with the highest interests of the two great nations and presents an opportunity for the respective representatives to interpret not only the high ideals which I have been happy to find animating both Governments but also the basic good will which I am convinced exists in each country towards the other, and that it would also afford a favorable means for facilitating the definite removal of all existing misunderstandings and hence lead to permanent readjustment of the relations between the two countries mutually satisfactory to both. I firmly believe that such a generous action would appeal to the sentiment of the peoples of the respective countries and be applauded by

²⁸ Quoted portion not paraphrased.

all the nations of the Western Hemisphere as a step in the interest of permanent peace and good will.

I am fully aware of Your Excellency's earnest desire to establish better relations among the countries of this hemisphere and I have therefore the honor to suggest in full confidence that it will meet with your approval and acceptance, that your Government signify its readiness to reestablish diplomatic relations with the Peruvian Government and indicate your willingness to appoint a diplomatic representative near the Peruvian Government at an early mutually convenient date.

A similar inquiry is being made to the Minister of Foreign Affairs of Peru.

Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) Frank B. Kellogg, Secretary of State of the United States of America.

His Excellency Señor Don Conrado Rios Gallardo, Minister for Foreign Affairs of Chile, Santiago, Chile."

KELLOGG

701.2325/7d : Telegram

The Secretary of State to the Ambassador in Peru (Moore)

[Paraphrase]

WASHINGTON, July 9, 1928—1 p. m.

52. Placing reliance upon the positive assurance of President Leguía that he would accept my suggestion to exchange diplomatic representatives with the Republic of Chile, I am sending concurrently with this telegram a communication to the Foreign Minister of the Republic of Chile in exactly the same form as the following note which you are instructed to deliver to the Foreign Minister of Peru. It is suggested that you present this to him in person and impress upon him and the President the importance of a friendly and unconditional acceptance of this suggestion, and more especially that the answer should carefully avoid the reopening of discussions in regard to the Tacna-Arica question or the inclusion of any matter of a controversial nature. The same representations are being made to the Government of Chile. The Chilean Ambassador has assured me that Chile will accept my invitation to exchange Ministers with Peru. I feel certain that this action will redound to the honor and credit of Peru, and will be regarded as a liberal and broad-minded step. These communications will not be made public until replies have been received from both Governments.

[Here follows the text of the note, the same, *mutatis mutandis*, as that contained in the Department's telegram No. 44, of the same date, to the Ambassador in Chile, printed *supra*.]

KELLOGG

701.2325/22

*The Chilean Minister for Foreign Affairs (Rios) to the Secretary of State*²⁹

[Translation]

SANTIAGO, July 11, 1928.

EXCELLENCY: I have experienced great pleasure in acquainting myself with the communication dated the ninth instant, in which Your Excellency is pleased to let me know that you have been most gratified to observe the mutual growth of a more friendly feeling between Chile and Peru, which Your Excellency deems to be a tribute to the well-marked public spirit of both Governments and an evidence of the desire to establish a basis of cordial and permanent understanding between the two peoples.

Your Excellency lays stress on the great and careful attention with which you have selected the means by which the Government of the United States and Your Excellency will be able to assist the two countries and state that after long and careful deliberation Your Excellency has come to the conclusion that an accommodation of their mutual interests would be promoted thanks to the reestablishment of diplomatic relations through the reciprocal appointment of their respective agents. Your Excellency believes that such a course is consistent with the highest interests of Chile and Peru, and would present to their representatives an opportunity to interpret not only the ideals of their Governments, but also the basis of good will which, as Your Excellency is convinced, exists between the two nations; and that it would also afford a favorable means for facilitating the definite removal of all misunderstandings which exist between them and lead them to a permanent reestablishment of the relations between the two Republics in a satisfactory manner. Your Excellency believes that the resumption of diplomatic relations would appeal to the sentiment of the peoples of Chile and Peru and would, in addition, be applauded by all the nations of the Continent as a step in the interest of peace and conciliation. Your Excellency especially mentions the desire of my Government to contribute towards bringing closer the ties between the American peoples and, on that ground, you see fit to suggest, in full confidence that it will be accepted and approved, that Chile signify its readiness to reestablish diplomatic relations with the Peruvian Government and indicate its willingness to appoint its representative in this country at an early mutually convenient date. Your Excellency ends with the statement that a similar invitation is being made to His Excellency the Minister of Foreign Affairs of Peru.

²⁹ Transmitted to the Secretary of State by the Chilean Ambassador in a covering note of July 12.

I must first express to Your Excellency the earnest thanks of my Government for your very cordial initiative and the friendly interest prompted by it, affording favorable means for facilitating the definite removal of the difficulties pending between Chile and Peru. The inspirations of invariable harmony and concord which have always guided the international policy of Chile being well known to Your Excellency, Your Excellency had reason to feel assured that this invitation was bound to be received by us in a frankly favorable spirit.

The honor, therefore, devolves upon me to inform Your Excellency of our full acceptance, feeling assured that we are thus responding not only to the desire for peace which guided the thoughts of my Government but also the broad spirit of conciliation which animates our people as a reflex of their profound faith in the progress and welfare of all the countries of America under the protection of an atmosphere of international tranquillity and trust.

Harboring the flattering hope that this initiative and the open way in which it is met by Chile, will soon yield the results sought by Your Excellency's high purposes for a better realization of the ideals of union and fraternity in which all the peoples of America join, it affords me satisfaction to say that my Government is ready to arrange the measures that may be necessary for a resumption of its diplomatic relations with Peru in the manner suggested by Your Excellency.

I avail myself [etc.]

CONRADO RIOS GALLARDO

701.2325/14 : Telegram

The Ambassador in Peru (Moore) to the Secretary of State

LIMA, July 12, 1928—4 p. m.

[Received 10:10 p. m.]

73. My 72.³⁰ The following note addressed to you has just been handed me by the Minister for Foreign Affairs:

"Lima, July 11, 1928.

Mr. Secretary: Through His Excellency the Ambassador of the United States in Lima I have had the honor to receive the important communication of Your Excellency dated yesterday in which, referring to the growth of more friendly feeling between Peru and Chile and to the conviction which Your Excellency entertains that beneficial results for both countries will be obtained from the reestablishment of diplomatic relations between their respective Governments, Your Excellency suggests that the Government of Peru signify whether it is disposed to reestablish those relations and is willing to appoint a representative in Santiago at an early mutually convenient date.

³⁰ Not printed.

In reply I have the honor to state to Your Excellency that in deference to your friendly invitation my Government is disposed to reestablish diplomatic relations with the Chilean Government and to appoint someone to represent it in Santiago on the date which is to be fixed by common agreement.

In thus acting upon the suggestion of Your Excellency I avail myself of this opportunity to repeat to the Secretary of State the assurances of my most high and distinguished consideration.

Signed, Pedro Jose Rada y Gamio.³¹

MOORE

701.2325/15c : Telegram

The Secretary of State to the Ambassador in Chile (Collier) ³¹

WASHINGTON, July 13, 1928—2 p. m.

47. Please present my compliments to the President and Minister for Foreign Affairs and express to them the gratification I feel. I am sure their action will be for the best interest of Chile and be considered by all the world as a high-minded and honorable step.

KELLOGG

701.2325/18a : Telegram

The Secretary of State to the Ambassador in Peru (Moore)

[Paraphrase]

WASHINGTON, July 13, 1928—6 p. m.

58. Upon receiving this morning Peru's acceptance of my suggestion that Chile and Peru reestablish diplomatic relations through an exchange of diplomatic representatives, I called in the Chilean and Peruvian Ambassadors and told them that my proposal had been accepted by both Governments without conditions, and that, while I should be glad, of course, to render them any possible assistance in the way of making arrangements regarding requests for *agrément*s, I suggested that they would probably be able to arrange this matter themselves. As a result of this conference, both Ambassadors said that they would immediately cable their Governments and ask for the earliest date on which they would be ready to request *agrément* for their representative to the other country, and also the name of the person proposed for this office. Both Ambassadors will meet again when they receive answers to their requests. They will keep the Department informed, and will advise each other of the name of the proposed representative. Both Ambassadors will suggest to their

³¹ The same, *mutatis mutandis*, on the same date to the Ambassador in Peru, as telegram No. 57.

Governments that they consider the question of giving the representatives the rank of Ambassador. I told the Ambassadors that while that of course was not a matter on which I was entitled to comment, nevertheless, I thought that this would be a very nice solution. Repeated to Chile as instruction No. 48.

KELLOGG

701.2325/18b : Telegram

The Secretary of State to the Ambassador in Peru (Moore)

WASHINGTON, July 16, 1928—5 p. m.

59. Department's 58, July 13, 6 p. m. Chilean Ambassador states that his Government would like to know whether Peru will agree to appointment of Ambassadors or only Ministers. It will be in a position to give name and date on which request of *agrément* may be made when this preliminary question is answered. Chilean Ambassador has already discussed this matter with Peruvian Ambassador who has cabled his Government. Chilean Ambassador is very anxious for a prompt reply in order that the program may not be delayed. If you perceive no objection you may informally use your good offices in the sense of expediting the reply on this question.

KELLOGG

701.2325/19 : Telegram

The Ambassador in Peru (Moore) to the Secretary of State

LIMA, July 17, 1928—noon.

[Received 2:30 p. m.]

77. Department's 59, July 16, 5 p. m. Saw President Leguia. He says that if our country desires it, he could see no objection to appointment of Ambassadors. It is probable that this question would have to go before Congress which meets July 28th.

The President said he is surprised and delighted at the way the matter has been received in Peru and the world generally.

MOORE

701.2325/27a : Telegram

The Secretary of State to the Ambassador in Peru (Moore)

WASHINGTON, July 21, 1928—1 p. m.

62. The Chilean Ambassador advises Department his Government will be ready to send a message to the Chilean Congress on July 28 regarding the reestablishment of diplomatic relations with Peru and the opening of an Embassy in Lima and that they will be ready to sign a decree the same day naming their Ambassador.

Chilean Ambassador states that they of course do not insist on this date but that date or any date thereafter agreeable to Peru will be agreeable to Chile. The Chilean Ambassador suggested this date to his Government as it is the national anniversary of Peru and he thought it would be a nice compliment and friendly gesture to Peru to do it on that date. The Peruvian Ambassador has been informed of the above. You may also bring this to the attention of the proper authorities.

KELLOGG

701.2325/27 : Telegram

The Ambassador in Peru (Moore) to the Secretary of State

LIMA, July 23, 1928—11 a. m.

[Received 1:10 p. m.]

82. When your 62, July 21, 1 p. m., was brought to the attention of President Leguia yesterday he said that he saw no reason why Chile should not go ahead with the procedure mentioned therein.

[Paraphrase.] The President was gratified by this indication of good will on Chile's part and added hopefully these words: "We will see how far she is willing to go." [End paraphrase.]

MOORE

701.2325/27 : Telegram

The Secretary of State to the Ambassador in Peru (Moore)

[Paraphrase]

WASHINGTON, July 24, 1928—noon.

64. Your telegram No. 82, July 23, did not state that President Leguia undertakes to send a message to the Peruvian Congress, July 28, with regard to the reestablishment of diplomatic relations with the Government of Chile and that he will be prepared to sign a decree on the same date designating an Ambassador. The agreement is, of course, that both Governments take action simultaneously. The Peruvian Ambassador in Washington has received no instructions. Please confirm as soon as possible if President Leguia agrees to take the same action as the Republic of Chile on July 28 in order that the Department may communicate this to the Chilean Ambassador in Washington in time for the Government of Chile to take the proposed action the same day.

KELLOGG

701.2325/29 : Telegram

The Ambassador in Peru (Moore) to the Secretary of State

LIMA, July 24, 1928—7 p. m.

[Received 11:30 p. m.]

83. Your 64. The President says that the Peruvian Ambassador in Washington has been given full instructions in the matter. He says that under the Peruvian Constitution his message to Congress at the inaugural session is limited to a report on past activities and cannot initiate new legislation, and that Congress is also unable to enact legislation at that session. Also he cannot name an Ambassador without the approval of the Senate.

[Paraphrase.] The President stated that he hopes that his inability to act simultaneously with Chile in the way suggested would be perfectly clear, and that it would not be misinterpreted as a lack of good will by him. The President repeated his anxiety on this point two or three times. He stated that he would communicate with Congress on this subject immediately after the close of the national holidays on July 31. [End paraphrase.]

MOORE

701.2325/29 : Telegram

The Secretary of State to the Ambassador in Peru (Moore)

WASHINGTON, July 25, 1928—4 p. m.

65. Your 83, July 24, 7 p. m. Peruvian Ambassador has received a telegram apparently sent later stating that President Leguia will send a message to Congress on July 28, for the establishment of an Embassy in Santiago. While Peruvian Ambassador was at Department showing this telegram, the Chilean Ambassador arrived and the Peruvian Ambassador read it to him also. It was agreed by them that both Governments would, therefore, send a message to their respective Congresses on July 28 asking for the establishment of Embassies in the other country. The Peruvian Ambassador is immediately telegraphing in this sense to his Government.

The Department considers it very important that there should be no misunderstanding or slip up in the program. It would be most unfortunate if one country sent a message to Congress on the 28th and the other failed to do so. It is a definite understanding that both countries will now do so on July 28. Please keep in close contact with the situation to know that this is definitely understood in Lima.

The Chilean Ambassador while at the Department advised the Peruvian Ambassador that as it is customary for Chiefs of State to exchange telegrams on their national anniversaries, President Ibanez

would like to send a congratulatory message on the 28th to President Leguia and inquired of the Peruvian Ambassador whether he thought that this would meet with the approval of President Leguia or whether the latter would feel that the President of Chile was anticipating matters. The Peruvian Ambassador stated that he thought that this would be considered as of very delicate attention and appreciated as such. The Chilean Ambassador then indicated that Ibanez would send such a message.

KELLOGG

701.2325/31 : Telegram

The Ambassador in Peru (Moore) to the Secretary of State

LIMA, July 26, 1928—4 p. m.

[Received 11:30 p. m.]

84. Your 65, July 25, 4 p. m. The Minister for Foreign Affairs says that President Leguia will submit to the Peruvian Congress on July 28 a project for establishing an Embassy at Santiago and that Congress will act upon it after July 31 when it has completed its organization, but that the President cannot name an Ambassador until the position has been legally created.

MOORE

701.2523/12 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, August 1, 1928—11 a. m.

[Received 1:12 p. m.]

84. Emiliano Figueroa Larrain, formerly Deputy, Cabinet Minister, Minister to Argentina 1911, President of the Republic prior to Ibanez, offered and accepted appointment as Ambassador to Peru. Appointment generally approved here. See my despatch No. 1067, May 10, 1927.³²

COLLIER

701.2325/43

The Peruvian Ambassador (Velarde) to the Secretary of State

[Translation]

WASHINGTON, August 7, 1928.

EXCELLENCY: I have the honor to inform Your Excellency that the Peruvian Congress has approved the Bill which was introduced by the Executive Power creating an Embassy of Peru in Chile.

I avail myself [etc.]

HERNAN VELARDE

³² Not printed.

701.2325/59: Telegram

The Ambassador in Peru (Moore) to the Secretary of State

[Paraphrase]

LIMA, August 23, 1928—1 p. m.

[Received 1:44 p. m.]

97. I have been requested by the Minister for Foreign Affairs to ask for the good offices of the United States for the formal *agrément* from the Government of Chile for Cesar A. Elguera as Ambassador to Chile. As soon as I am informed of the receipt of the Chilean reply, the name will be made public here.

MOORE

701.2325/50: Telegram

The Acting Secretary of State to the Ambassador in Peru (Moore)

[Paraphrase]

WASHINGTON, August 25, 1928—1 p. m.

69. The contents of your telegram No. 97, August 23, 1 p. m., were immediately communicated to the Chilean Ambassador in Washington. Yesterday he cabled his Government and now has received a reply stating that the Chilean Government is very happy to accord *agrément* for Señor Elguera as Peruvian Ambassador to Chile.

WHITE

701.2523/21

The Chargé in Peru (Hanna) to the Secretary of State

No. 108

LIMA, October 8, 1928.

[Received October 24.]

SIR: With reference to my telegram No. 114 of October 2, 2 [5] p. m.,³³ I have the honor to report that the Chilean Ambassador, Señor Emiliano Figueroa Larrain, presented his credentials to President Leguía on October 3, 1928.

His remarks, together with President Leguía's reply, as they appeared in *La Prensa* on October 4, are enclosed herewith. *La Prensa*, of October 6, also published the remarks made by President Ibáñez of Chile when the Peruvian Ambassador, Doctor Elguera, presented his credentials on October 5. His remarks terminated with the following paragraph:

"I desire that the differences which have separated us for so long a time may be immediately settled in a definite manner on a basis of justice and greater equity".

³³ Not printed.

A high official of the Foreign Office here told me that he considered this reference by President Ibáñez to "justice and greater equity" as especially significant.

I have [etc.]

MATTHEW E. HANNA

[Enclosure—Translation]

Remarks of the Newly Appointed Chilean Ambassador to Peru (Figueroa) on the Occasion of the Presentation of His Letters of Credence on October 3, and Reply of President Leguía

YOUR EXCELLENCY: I am particularly pleased and honored to place in Your Excellency's hands the letters of credence with which His Excellency Carlos Ibáñez del Campo, President of Chile, accredits me as Ambassador Extraordinary and Plenipotentiary before the Government of Peru.

These credentials are of transcendental importance. They embody the desire to renew, on a stable and definitive basis, the political relations of two countries which should end their differences in order to collaborate more fully for the progress of the Continent.

My mission, Your Excellency, has as its special object the cultivation of the spirit of cooperation and harmony in the reciprocal relations of Peru and Chile, whose mutual intelligence all America hopes will produce worthy results. This situation has, moreover, given the Secretary of State of the United States the opportunity to take the happy initiative in paving the way for your Government and mine to renew diplomatic relations, as a consequence of the spiritual friendship already awakened between the two peoples.

A desire for frank concord reigns today over the relations of the greatest nations of the world, and an intense seeking for tranquility and harmony is clearly visible in all manifestations of the popular will. And these nations of America which guard the treasure of their youth and natural riches, must live a life of frank understanding and fruitful economic cooperation.

Toward the realization of these ends I shall bring all the earnestness animating not only my Government but me personally, and I entertain the firm conviction that in the discharge of this task I can count upon the wholehearted assistance of Your Excellency and of your worthy colleagues in the Government of Peru.

Permit me, Your Excellency, to express my sincerest wishes for the prosperity of Peru and for the personal happiness of Your Excellency.

In reply, President Leguía spoke as follows:

YOUR EXCELLENCY: It is with especial pleasure that I receive the letters accrediting you in the high position of Ambassador Extraordinary and Plenipotentiary of the Government of Chile before my Government.

There was a time, Your Excellency, when the traditions of the past united us fraternally in the shadow of a history forged by common heroes on a soil whose continuity was marked by the hand of God.

In the course of time peoples unite or separate, according to the voice that moved them. There was an epoch during which predominated dissolving forces which provoked the perpetual anarchy of the universe; but today, by the law of evolution which transforms primitive instincts into intelligence, forces of cooperation dominate the world; these forces weld men and peoples and establish the reign of peace and love.

Believing thus, His Excellency the Secretary of State, Mr. Frank B. Kellogg, proposed the suggestion, which we accepted, that diplomatic relations between our two peoples be reestablished. These relations were broken in a moment when human conscience had not revealed its strength for transforming the past, embittered by wars, into the present, illuminated by peace.

We live, Your Excellency, in an historic moment. Your presence in the ancient house made illustrious by the legendary life of Pizarro; your words which demonstrate the sincerity of your convictions; the generous attitude of His Excellency, the President of Chile, statesman and patriot,—all seem to anticipate the coming of an hour which posterity shall bless:—the hour for liquidating, with justice and abnegation, the errors of the past, as you have so well said, in a manner which shall reestablish firmly and definitively the friendship between Peru and Chile, in order, that, in the future, without fear nor distrust, the ancient brotherhood which our strength and glory generated, may be achieved anew.

Your Excellency, in acknowledging your high diplomatic rank, it gives me pleasure to offer you all the assistance of my Government for the greatest success of your mission and to request that you transmit to your country my best wishes for the prosperity of Chile and the personal happiness of your worthy President.

701.2325/59

The Ambassador in Chile (Culbertson) to the Secretary of State

No. 26

SANTIAGO, *October 8, 1928.*

[Received October 30.]

SIR: I have the honor to report that the new Peruvian Ambassador to Chile, señor don César A. Elguera, with three secretaries, Javier Correa y Elías, Hector Adolfo Morey and Javier Delgado Yrigoyen, arrived in Santiago from Peru on the 3d instant, and on October 5 señor Elguera was officially presented to President Ibáñez.

In presenting his credentials to the President, Ambassador Elguera said:

"On presenting the letters which accredit me as Ambassador of Peru to your country, I intend [*extend?*] the sincerest good wishes, in the name of my Government and in my own, for the prosperity of your country and your personal happiness."

In the following brief reply by President Ibáñez, it will be noticed that he pays a tribute to the part played by Secretary Kellogg in bringing about the resumption of diplomatic relations between the two countries. The President said:

"On recognizing Your Excellency as the Ambassador of Peru to my Government, I wish to pay my tribute in the first place to the eminent American statesman, Mr. Kellogg, whose felicitous initiative it was to invite us to renew our diplomatic relations.

"In this act of historical significance of our countries, I make the sincerest good wishes for the prosperity and greatness of Peru, and for the happiness of the eminent citizen who rules her destinies, His Excellency señor Leguía, and I assure you, Mr. Ambassador, that in my country and in my Government you will meet with all the facilities necessary for the discharge of your noble mission.

"At the same time I pray that Divine Providence may illumine our relations and strengthen the desire of peace and concord which exists in our peoples, to the end that they may soon move forward together, as they were born together, to independence.

"I wish that the differences which have separated us for so long may be speedily and definitively resolved according to principles of justice and greater equity."

I have [etc.]

W. S. CULBERTSON

TACNA-ARICA DISPUTE: BEGINNING OF DIRECT NEGOTIATIONS BETWEEN CHILE AND PERU AT THE SUGGESTION OF THE UNITED STATES³⁴

723.2515/3154 : Telegram

The Ambassador in Peru (Moore) to the Secretary of State

[Paraphrase]

LIMA, June 18, 1928—2 p. m.

[Received 8:25 p. m.]

60. I saw President Leguía. At present the Tacna-Arica situation is as follows: President Leguía prefers and is anxious to have President Coolidge render a decision settling the entire controversy, and he will unquestionably stand by that decision. I am satisfied that President Leguía's reason for this is that while he is most anxious

³⁴ For previous correspondence concerning the Tacna-Arica dispute, see *Foreign Relations*, 1926, vol. I, pp. 260 ff. and pp. 486 ff.

to get the matter out of the way, he does not want any responsibility before the public that can be avoided. President Leguia would, of course, accept internationalization of the whole zone. If the plantations, port and city of Arica were internationalized, he would divide the disputed territory in two. He would exchange Ministers,³⁵ but he will not take the initiative in suggesting this. There is a remote possibility that he might agree to divide the territory and have an international commission decide the compensation to Peruvian individuals for damages to their property or for property taken from them. President Leguia is unalterably opposed to turning the territory over to Bolivia. There is no question of a sincere desire for a settlement. If the Department has any suggestions, or cares to feel out Chile on any suggestions, the time is now propitious to do so as there is no question that Peru is receptive but fears the political consequences of initiating any movement. I am awaiting the Department's suggestions or instructions.

MOORE

723.2515/3154 : Telegram

The Secretary of State to the Ambassador in Peru (Moore)

[Paraphrase]

WASHINGTON, *September 26, 1928—4 p. m.*

75. Embassy's telegram No. 60, June 18, 2 p. m., in which you state:

"There is a remote possibility that he might agree to divide the territory and have an international commission decide the compensation to Peruvian individuals for damages to their property or for property taken from them."

It seems to me that the time is now propitious to inaugurate in some way conversations looking to the settlement of the Tacna-Arica question. In a short time Ambassadors will be resident in each country. In view of the improved feeling between the two countries, can you ascertain from President Leguia how far he would be willing to go in the settlement of this matter? I gather from President Leguia's statements to you that he will not agree to the transfer of any of the territory to Bolivia. I do not believe that Chile will agree to neutralization. It seems to me, therefore, that the division would be the best. The first proposition I ever made was for division. However, I do not desire to make a definite proposition to either country at present, but I should like to have President Leguia's agreement in principle on a settlement before I make any further propositions.

KELLOGG

³⁵ See pp. 647 ff.

723.2515/32041

Memorandum by the Assistant Secretary of State (White)[WASHINGTON,] *October 2, 1928.*

The Chilean Ambassador called on the Secretary on Monday afternoon, October 1, at the Secretary's request. The Secretary stated that he had been giving careful consideration for some time to the boundary question matter. He stated that he had been afraid, when there had been difficulties in the past and especially now that a more friendly spirit existed between both Governments and peoples, that something might happen over the boundary matter which would make the definitive settlement of the Tacna-Arica question more difficult. He added that he was very much encouraged from what he had heard from the Ambassador and also from our Ambassador in Chile and from messages he had just received from Ambassador Moore that a settlement could soon be arranged. The Secretary thought the prospect was much brighter now than at any time in the past and, this being so, he was especially anxious that nothing should occur now to interfere with the settlement. He, therefore, thought that the suggestion made by the Chilean Ambassador some time ago, that this question be settled by adjourning the work of the Commission until the whole problem could be disposed of, was a very good one.

The Secretary stated that there were two ways in which this could be done: the work of the Commission could be suspended while the two Governments attempted by direct negotiations to settle the boundary, or else it could go over entirely pending a definite settlement of the Tacna-Arica question. The Secretary thought the latter the best because the discussion over the Tarata boundary might possibly cause some feeling which would make the other settlement more difficult and, if the other settlement should be made, it would automatically solve this boundary question.

The Ambassador stated that he fully agreed and he thought it would be much better to suspend all operations for some time in order to give the Governments a chance to arrive at a settlement. He inquired whether the Secretary had any news indicating that Peru would accept a division of the territory. The Secretary said that he did not; that he had merely strictly confidential information from Ambassador Moore that the President would like to make a direct settlement with Chile when the renewal of diplomatic relations becomes effective, and that the agreement reached could then be submitted to the Arbitrator for his approval. Ambassador Moore did not indicate anything else except that there were certain other points in connection with the settlement which President Leguia wished him to discuss with the Secretary upon his arrival here.

The Ambassador stated that he was most sanguine that a settlement would be made and he hoped within the next two months, and that he would immediately telegraph his Government regarding the Secretary's suggestion. The Secretary, for his part, said that he would immediately take the matter up with the Chargé d'Affaires in Lima and also with Ambassador Velarde here to obtain the consent of both Governments for a disposition of the matter.

F[RANCIS] W[HITE]

723.2515/3204a : Telegram

The Secretary of State to the Chargé in Peru (Hanna)

[Paraphrase]

WASHINGTON, *October 2, 1928—noon.*

77. As you know, the Tacna-Arica Boundary Commission on several occasions has become involved in very difficult situations which threatened not only to destroy the harmony of the meetings but also, if unchecked, to prejudice the new friendly spirit between the two Governments and people. In order that nothing may now be done to make a settlement more difficult, which settlement I hope will soon be reached, I desire that you call on President Leguia at once and, after explaining the circumstances mentioned above which bring me to this view, suggest to him that the Commission suspend its operations completely for a period of four months. The expenses of the Commission would stop immediately, and would not be resumed unless it should become necessary for the Commission to resume action later. I hope very much that the entire Tacna-Arica question will be settled before that time, in which case there will be no need for the Commission to make a decision, since Peru will receive very much more territory under a settlement of the entire Tacna-Arica question than that country could possibly receive from the Commission. Please take this matter up immediately and cable the reply of President Leguia. A similar suggestion has been made to the Government of Chile. If both Governments are in agreement, each can then issue instructions to its member on the Commission to vote for the postponement in question. Neither party will be prejudiced in the least by this action. It will save expense, and if a settlement is eventually made, as I hope and believe it will be, the necessity for further action will be obviated. I urge strongly that this course be pursued.

KELLOGG

723.2515/3205 : Telegram

The Chargé in Peru (Hanna) to the Secretary of State

[Paraphrase]

LIMA, October 3, 1928—7 p. m.

[Received 10:15 p. m.]

115. Your No. 77, October 2, noon. President Leguia, whom I have just seen, says that I may inform you that he accepts your suggestion in the same spirit that he accepted your earlier suggestion to renew diplomatic relations with the Government of Chile. President Leguia gave me this answer without hesitation, adding that the suspension of the proceedings of the Boundary Commission will be regarded as a diplomatic victory by the Government of Chile in its efforts to maintain its claim to territory never embraced in the Treaty of Ancon.³⁶

HANNA

723.2515/3207

Memorandum by the Assistant Secretary of State (White)

[WASHINGTON,] October 5, 1928.

The Chilean Ambassador called on Mr. White on the afternoon of October 4 to say that he had been advised by his Government that it agreed to the suspension of the work of the Boundary Commission. It was agreed that General Morrow would call a meeting when advised by the Department that both the Chilean and Peruvian Ambassadors had informed us that the delegates of their Government on the Commission had been instructed to vote for the adjournment. General Morrow would then suggest the suspension of the work of the Commission for four months and the other two Commissioners would both agree. The Secretary would then give out a press statement saying that this had been agreed upon by both Governments. The Ambassador agreed to this and said he thought it was the best way as it would not be necessary for either Government to suggest the postponement. He added that he hoped a settlement would be made quickly. This is the honeymoon in the relations between the two Governments and should be availed of immediately before there is any cooling off of relations.

F[RANCIS] W[HITE]

³⁶ i. e., treaty of peace of Oct. 20, 1883, *Foreign Relations*, 1883, p. 731.

723.2515/3205 : Telegram

The Secretary of State to the Chargé in Peru (Hanna)

[Paraphrase]

WASHINGTON, *October 5, 1928—noon.*

79. Your No. 115, October 3, 7 p. m. Please see President Leguia and tell him I sincerely appreciate his action in this matter. I am pleased that the work of the Boundary Commission may be suspended for a while, because I feel that it will aid in a settlement.

Please tell President Leguia that I see no reason why this suspension should be considered a diplomatic victory for Chile, since the suggestion came from me and not from the Government of Chile. I made the proposal to both Chile and Peru, and I received the acceptance of Peru before that of Chile. The reason for my proposal is, that if a settlement is made, obviously there is no need for delimiting the boundary between Tacna and Tarata, and, since a most favorable opportunity now exists for a settlement and since all indications are that it will be possible to arrive at a settlement shortly, I desired to remove every possible source of friction that might interfere with such a settlement or make it more difficult. The postponement, therefore, cannot be considered a diplomatic victory for either side but merely as a common-sense arrangement to do everything possible to make conditions as favorable as possible for promoting a settlement.

KELLOGG

723.2515/3208 : Telegram

The Chargé in Peru (Hanna) to the Secretary of State

[Paraphrase]

LIMA, *October 8, 1928—6 p. m.*

[Received 9:45 p. m.]

117. Your No. 79, October 5, noon. Today I delivered your message to President Leguia. He made the following comment: "We will see if we can reach some agreement." The President then expressed surprise that the Chilean Ambassador had not yet requested an audience to discuss the Tacna-Arica question. The President said that if the Ambassador does not do so soon, he will take the initiative. He added that Ambassador Elguera has instructions to commence negotiations in Santiago. The President then stated that the atmosphere was now favorable and that he did not want to delay for fear that it may change because of some unforeseen incident.

HANNA

723.2515/3209

Memorandum by the Assistant Secretary of State (White)[WASHINGTON,] *October 8, 1928.*

The Bolivian Minister, Señor Don Eduardo Diez de Medina, accompanied by Señor de la Barra, First Secretary of the Legation, called on the Secretary of State on Monday, October 8.

The Minister stated that his Government had been informed in Lima that diplomatic relations having been reestablished between Chile and Peru direct negotiations would now be carried on by those Governments with a view to settling the Tacna-Arica question, and the Bolivian Government was fearful that a settlement might be made without the participation of the United States and that there might be economic arrangements concluded at the same time which would be very unfavorable. The Minister stated that he had a book, written by the present Minister for Foreign Affairs of Chile shortly before he assumed office, in which the latter pointed out that, before there was an American representative in Bolivia of the trustees for the bond issue of 1922, Chilean products occupied the first place in the list of imports into Bolivia and that, since that time, American products have occupied the first place and Chilean products have dropped to third place, and that, therefore, in view of the very large and close commercial relations between the United States and Bolivia, no settlement involving Bolivia should be made in Washington.

The Secretary replied that he knew of no exclusive commercial agreement under contemplation between Chile and Peru although, of course, it had been stated that a commercial treaty would be concluded when the Tacna-Arica question was settled. The Minister stated that he did not have in mind an exclusive commercial agreement but that Chile and Peru might make an agreement giving one another lower tariff rates or even putting certain goods on the free list and that this was looked upon with concern in Bolivia. The Secretary stated that he did not know that there was any conflict between Bolivian commerce on the one hand and Chilean and Peruvian on the other; that Chile imports mostly cotton and sugar from Peru which are not produced by Bolivia and, on the contrary, Peru takes from Chile mostly fruits and nitrates which also are not produced in Bolivia. The Minister replied that that was quite true; that what he had referred to was the unfavorable position in which the United States would be put in trade with these countries. The Secretary immediately replied that, in a political controversy of the importance of that of Tacna-Arica, he certainly would not let any question of self-interest on the part of the United States enter into

it. In fact, he did not think that American commerce would be adversely affected but, even so, he was endeavoring to settle the question on its merits and to be helpful to the sister Republics concerned. He was not concerned with trying to obtain any material advantage for the United States in settling it nor would he let any possible self-interest prevent a settlement and he could not and would not take any measures to prevent Chile and Peru from arriving at a settlement solely between themselves.

The Minister stated that he understood this but that he was very anxious, of course, to see that nothing happened to the detriment of Bolivia. . . . The Secretary said that he trusted nothing of this sort would come about but that the Minister of course must understand that he is unable to bring Bolivia into the negotiations. As the Secretary had said at the outset of this matter when Bolivia had asked to come into the good offices, the Tacna-Arica question was a matter which had been submitted by Chile and Peru for the arbitration of the United States and then to the good offices of the Secretary of State and, unless he were given fuller authority in the settlement or were requested by the two parties at interest, he could not bring a third party into the negotiations. The Minister stated that he took note of what the Secretary said and that he very much regretted that the last hope of Bolivia was denied her as, without the support and friendly aid of the United States, she could do nothing.

The Secretary replied that the friendly support and interest of this Government in Bolivia had never been and was not now withdrawn. The Secretary was merely stating the facts as they are and when he had been given an opportunity to make a suggestion for a settlement he had suggested that the territory be given to Bolivia. The Secretary thought and still thinks that this is the best solution of the whole matter and that, if both parties do not wish to give the entire territory to Bolivia, at least they should give a zone of land including the railroad and city and port of Arica.

The Minister expressed his great gratification and said that in order that there might be no misunderstanding he would summarize his position as follows: He had not and of course could not ask that the United States Government do anything to prevent a direct settlement between Chile and Peru. On the other hand, the only strength that Bolivia has is in the justice of its case and in the friendly support of the United States, and that should this support be withdrawn from Bolivia it would be without remedy. Bolivia would welcome a settlement between Chile and Peru . . . The Minister was very gratified that the friendly interest of the United States

Government in Bolivia continued and he wanted to ask that the position and desires of Bolivia should not be forgotten if a favorable opportunity should arise to do something in Bolivia's behalf. The Secretary told the Minister that of course he would be glad to bear this in mind.

F[RANCIS] W[HITE]

723.2515/3216 : Telegram

The Chargé in Peru (Hanna) to the Secretary of State

[Paraphrase]

LIMA, October 27, 1928—11 a. m.

[Received 9 p. m.³⁷]

121. Last evening President Leguia summoned me to his office and gave me an oral statement of the progress of his negotiations with the Chilean Ambassador. The principal points of these are as follows:

Two conferences have taken place. At the first conference the only important matter discussed was the suggestion of the President that the negotiations take place at Lima. The Government of Chile accepted this suggestion. At the beginning of the second conference the President told the Ambassador, in answer to the Ambassador's inquiry as to Peru's attitude, that he felt that justice demanded the return to Peru of the entire territory in dispute. He substantiated this by reviewing the arbitral proceedings which he interpreted as clearly indicating the right of Peru to the territory. He emphasized especially Peru's acceptance of a plebiscite contrary to her interests, the failure of the plebiscite due to the acts of Chile, and the Lassiter motion.³⁸ The Ambassador declined to consider a solution on this basis and proposed a division of the territory. The President objected because Tacna has no feasible outlet except through the port of Arica and because the two provinces form a single economic unit. The Ambassador then asked the President to make a further suggestion and, in reply, the President told the Ambassador that he would agree to placing the entire territory under the administration of the United States. This proposition was submitted by the Ambassador to his Government. He is now awaiting a reply.

I reminded the President that if the United States refused to act in the capacity indicated, his last suggestion would be futile. The President replied that in that event the United States might consent to act as administrator in conjunction with some other neu-

³⁷ Telegram in two sections.

³⁸ See telegram June 1, 1926, 5 p. m., from the Consul at Arica, *Foreign Relations*, 1926, vol. I, p. 456, and subsequent correspondence.

tral country or countries. I then asked the President if he would accept an administration of the territory under some country or countries other than the United States. He answered in the affirmative. I stated that in the latter event many would consider Bolivia as the logical administrator. In reply to this he made it clear again that he would not consider turning the provinces over to Bolivia.

The President stated that he felt he ought to tell me that the Ambassador is not friendly to the idea of having the United States act as administrator of the territory, and had inquired why the President insisted on this, in reply to which the President had stated frankly that it was "to keep Chile in order." The President stated that he was informed that Chilean public opinion was pressing the Government of Chile to reach a settlement.

Day before yesterday I saw the Chilean Ambassador. He appeared to be very much discouraged, even pessimistic. He informed me that to the suggestion of the President that the entire territory be returned to Peru, he had made the counter-proposal of dividing the territory along the railway, giving to Peru the portion of Arica north of the railway in exchange for the portion of Tacna south of the line, and making a free port of Arica under the administration of Chile. He did not mention the President's forming the territory into an independent state.

It is my belief that the proposal of the President that all the territory in dispute be returned to Peru was made to place on record his claim that such a settlement would be the just settlement, and to establish a favorable point of departure for subsequent concessions to the views of Chile.

HANNA

723.2515/3216 : Telegram

The Secretary of State to the Chargé in Peru (Hanna)

[Paraphrase]

WASHINGTON, October 29, 1928—noon.

80. Your telegram No. 121, October 27, 11 a. m.

(1) Regarding President Leguia's suggestion that Chile and Peru agree to place the territory under the administration of the United States, please say to President Leguia that while this country would be glad to do anything it consistently can do to adjust those differences, it is unable to assume any obligation to govern the territory either alone, or in conjunction with some other neutral country to administer it.

(2) I am very anxious that Chile and Peru make an amicable adjustment of this long-standing difficulty and I cannot urge this too strongly. Both sides must make sacrifices. I am certain that the advantages of settlement will far outweigh any sacrifices and will commend itself to every nation in the world.

(3) For your information, it seems to me that a division of the territory on a line north of the railway with Chile contributing some territory northwest of Arica and Tacna some territory on the southeast, so that the railway will be on territory of Chile and the city of Arica be made a free port, would be a reasonable adjustment. Arrangements could be made that the Morro be set aside as a national monument; that both Tacna and Arica be demilitarized with no forts at any place; that the Arica-Tacna railway have full rights in the harbor; and that Peru enjoy not only the rights of a free port but additional guarantees regarding equal charges, port dues and any other charges. This information is for you, but I do not desire to make any offer. I think it would be unwise so long as the negotiations are between the two countries.

(4) Repeat your telegram No. 121, October 27, to the American Embassy in Chile, together with this reply.

KELLOGG

723.2515/3218 : Telegram

The Chargé in Peru (Hanna) to the Secretary of State

[Paraphrase]

LIMA, November 1, 1928—noon.

[Received 6:45 p. m.³⁹]

123. Department's No. 80, October 29, noon. Last evening I delivered your message to President Leguia. He manifested regret because the United States would not participate in the administration of the territory in dispute, but stated that on October 28 the Chilean Ambassador had informed him that the Government of Chile refused to accept his proposal to neutralize the entire territory under the administration of the United States. He stated that the Ambassador then proposed that the territory be divided along a line 10 kilometers north of the railway from Arica to La Paz, the port of Arica to be under the administration of Chile. He stated that Peru is unable to accept this proposal which would transfer to Chile not only a large portion of Tacna but a portion of Tarata as well, and that Peru, of course, could not agree to surrender to Chile the port of Arica. He said that he was willing to make Arica a free port under neutral control, but he positively could not accept less, and

³⁹ Telegram in two sections.

would preferably permit the negotiations to fail because a less favorable solution would outrage Peruvian sentiment and would result in the overthrow of his Government.

He stated that if Chile would agree to make Arica a free port under neutral control, say of Uruguay and Venezuela, which have no boundary disputes with either Chile or Peru, he believes a way could be found to divide the balance of territory and adjust the remaining problems. With regard to the railway, he said that he objected to Chile's insistence on retaining it, because it was constructed by Chile upon territory in dispute under the Treaty of Ancon, despite Peru's protest made at that time. He stated, however, that Peru was willing to make a financial sacrifice and purchase the railway from Chile. The President has not yet given his answer to the proposal of the Ambassador.

The President seemed despondent. He seems to think that Chile is intransigent, especially with regard to the port of Arica. He thinks that the negotiations hinge on the disposition of that port. He thinks that they will fail if Chile refuses to accept some practical arrangement regarding it which will satisfy the national sentiment of Peru. It is my belief that he thinks that if such an arrangement can be agreed upon, he will find it possible to make reasonable concessions regarding the railway and the division of the territory.

HANNA

723.2515/3225 : Telegram

The Ambassador in Chile (Culbertson) to the Secretary of State

[Paraphrase]

SANTIAGO, November 12, 1928—4 p. m.

[Received 8:25 p. m.]

126. This morning Foreign Minister again stated that nobody in Chile would accept an agreement to give up the city of Arica. Foreign Minister is willing to give full commercial privileges to Peru in the city of Arica including free port and to erect a monument on Morro.

The Foreign Minister added that he fears war if the Tacna-Arica question is not settled. Without taking this statement too seriously, one must recognize that it reflects a general feeling, shared by the President, that Chile must still liquidate a war on her northern frontier. One reason for the delay in adhering to the anti-war treaty⁴⁰ is the sincerity of this feeling.

CULBERTSON

⁴⁰ See despatch No. 14, Sept. 8, 1928, from the Ambassador in Chile, p. 196.

BOUNDARY DISPUTES

Bolivia and Paraguay ⁴¹

724.3415/182

The Secretary of State to the Chargé in Bolivia (McGurk) ⁴²

No. 333

WASHINGTON, February 4, 1928.

SIR: In connection with recent despatches regarding the boundary dispute between Bolivia and Paraguay, the Department desires you to know for your confidential information and guidance that while the Government of the United States is of course always willing to lend its good offices in the cause of international harmony it does not wish at the present time, while the Tacna-Arica controversy is still pending,⁴³ to be placed in the position of undertaking to settle the boundary dispute between Bolivia and Paraguay, either by arbitration or other procedure. It would therefore be somewhat embarrassing if either party should formally request this Government to act, as a refusal would probably be seized upon by the elements anxious to lessen the prestige of the United States.

Since it seems possible that the President of Bolivia or the Minister for Foreign Affairs may mention this matter to you, the Department feels that you should keep its attitude in mind and be guided accordingly, without conveying the impression that you have any definite instructions on the subject.

I am [etc.]

FRANK B. KELLOGG

724.3415/182

The Secretary of State to the Ambassador in Peru (Poindexter)

No. 412

WASHINGTON, February 6, 1928.

SIR: The Department has received and read with interest your despatch, No. 883 of January 3 last,⁴⁴ reporting upon the interest shown by President Leguía in a friendly settlement of the existing boundary difficulties between Bolivia and Paraguay. It appears from this despatch that President Leguía has suggested to the Bolivian and Paraguayan Governments that they should seek the assistance of the United States in bringing the dispute to a peaceable conclusion.

[Here follow two paragraphs in the sense of the Department's instruction No. 333, February 4, 1928, to the Chargé in Bolivia, printed *supra*.]

I am [etc.]

FRANK B. KELLOGG

⁴¹ Continued from *Foreign Relations*, 1927, vol. I, pp. 315-322.

⁴² The same, *mutatis mutandis*, on the same date to the Minister in Paraguay, as instruction No. 406.

⁴³ See pp. 660 ff.

⁴⁴ Not printed.

724.3415/195

The Ambassador in Argentina (Bliss) to the Secretary of State

No. 285

BUENOS AIRES, May 28, 1928.

[Received June 21.]

SIR: I have the honor to report that the Paraguayan and Bolivian Boundary Commissions have resumed the negotiations which as the Department was informed in my Despatch No. 114, of December 28, 1927,⁴⁵ were suspended in order that the Delegates might consult with their respective Governments respecting the suggestions made by the Argentine Government with a view to furthering a friendly settlement of this controversy. (See my telegram No. 109, December 19, 7 p. m.)⁴⁶

The Paraguayan and Bolivian Delegations are presided over by Dr. Eusebio Ayala and Dr. Sanchez Bustamante, respectively. Dr. Isidoro Ruiz Moreno, the legal counselor of the Argentine Ministry for Foreign Affairs, will continue to act as friendly observer.

The first meeting, which occurred on May 7, was purely ceremonial in character, a tribute being paid to the memory of the late Dr. Diaz Leon, one of the authors of the protocol of April 22, 1927, (see Embassy's despatch No. 275, of April 29, 1927),⁴⁷ who died recently in Paris. The subsequent ones, however, are reported to have been devoted to lengthy discussions of the Argentine proposals, especially the suggestion that the dispute be submitted to arbitration. Although it seems that both delegations are in principle in accord with these suggestions, there have arisen, nevertheless, differences of opinion respecting the old question of the "modus vivendi" or the determination of the "status quo" that must prevail until the arbitral decision has been given. According to the *Nación* of May 19, the Bolivians consider that the first clause of the Argentine proposal (arbitration) means that the basic question of the delimitation of the frontier must be immediately settled, once and for all. The Paraguayans, on the other hand, interpret this suggestion as an invitation to proceed simultaneously with the arbitral settlement and the agreement respecting the "modus vivendi" that must prevail during the course of the arbitration. It is said that this "modus vivendi" would imply a temporary boundary quite different from the line of actual occupation. The other two Argentine suggestions have also given rise to certain divergences of opinion.

During the last ten days only the briefest and most non-committal reports of the conferences have appeared in the press, although it is known that active negotiations are still in progress.

⁴⁵ *Foreign Relations*, 1927, vol. I, p. 322.

⁴⁶ *Ibid.*, p. 321.

⁴⁷ *Ibid.*, p. 316.

A member of the Embassy was recently informed by Dr. Ruiz Moreno that it is most important for both countries to withdraw their troops from the forts in the disputed zone, as their presence there tends to excite and inflame popular feeling in both countries. The question must be settled peaceably, he said, for a war between Bolivia and Paraguay would be a long affair, consisting of guerilla fighting. Bolivia's superior strength over her opponent being neutralized by her greater distance from the field of war.

Dr. Moreno vigorously denied that Argentina would ever assume the role of mediator in the controversy, and added that she would confine herself to the giving of good offices and friendly advice.

I have [etc.]

ROBERT WOODS BLISS

724.3415/209

The Ambassador in Argentina (Bliss) to the Secretary of State

No. 339

BUENOS AIRES, July 19, 1928.

[Received August 16.]

SIR: Supplementing my despatches No. 285 of May 28th and No. 327-G of June 27, 1928 (page 3)⁴⁸ I now have the honor to inform the Department that the negotiations that have been in progress in Buenos Aires to define the boundary between Bolivia and Paraguay have been suspended, as the two delegations have been completely unable to reach any definite agreement.⁴⁹

The final session was held on July 12th at the Argentine Foreign Office. At this meeting a statement was drawn up announcing the suspension of the conference until the Governments of both interested countries shall have reached a new understanding and setting forth the viewpoints of each delegation. The penultimate paragraph declares that only peaceful means will be used to settle this question, "except in case of legitimate defense".

A copy of this document, as published by *La Prensa*, and a translation thereof are transmitted herewith.

During the course of this session, which was also attended by the Argentine Minister for Foreign Affairs and several other officials of the Foreign Office, Dr. Gallardo⁵⁰ expressed the opinion that although the Conference had not achieved a definite solution of this old problem, it left the road open for subsequent settlement and that this settlement would be aided by the exchanges of views that had taken place. He added that he hoped the two Governments would find it

⁴⁸ Latter not printed.

⁴⁹ See "Minutes and Documents of the Conferences of Paraguayan and Bolivian Plenipotentiaries held in Buenos Aires under the auspices of the Argentine Government" in *Proceedings of the Commission of Inquiry and Conciliation, Bolivia and Paraguay, March 13, 1929-September 13, 1929* (Washington [1929?]), pp. 265 ff.

⁵⁰ Argentine Minister for Foreign Affairs.

convenient to renew the negotiations in Buenos Aires, although Argentina would view with equal satisfaction any adjustment reached in another country.

Drs. Zubizarreta ^{50a} and Sanchez Bustamante, the Presidents of the Paraguayan and Bolivian Commissions, replied to Dr. Gallardo and expressed their thanks for the hospitality accorded by the Argentine Government.

The text of the Argentine proposals that have formed the subject of the recent deliberations, have been made public by the Argentine authorities. A copy and translation of these suggestions, as published in *La Prensa* of July 13th, accompany this despatch.

At the regular weekly diplomatic reception on July 18th I asked the Minister for Foreign Affairs if he would tell me the significance of the suspension of these negotiations. As is frequently the case, the Minister was noncommittal and confined his remarks to generalities. Nevertheless, I inferred that he was disappointed at the failure of the plenipotentiaries to reach an agreement—a failure reflecting on the efficacy of the good offices offered by the Argentine Government causing some little chagrin in official and press circles.

The visit to Buenos Aires at this time of the president-elect of Paraguay has given rise to speculation as to the effect it will ultimately leave upon this boundary question and whether the visits made by Dr. Guggiari to Argentina, Brazil, Uruguay and Chile will result in these four countries showing partiality to the Paraguayan claims. As yet there is only vague rumor on this hypothesis on which reliance cannot be placed but I shall report any reliable information I may be able to obtain.

I have [etc.]

ROBERT WOODS BLISS

[Enclosure 1—Translation ⁵¹]

Statement Issued July 12, 1928, by the Bolivian and Paraguayan Plenipotentiaries Suspending the Conference To Define Boundaries

At a meeting held in the Ministry of Foreign Affairs for the purpose of agreeing upon the Act of Suspension of the Conference on Boundaries between the two countries, the Plenipotentiaries of Bolivia and Paraguay hereby declare:

That it has not been possible for them to reach an agreement regarding the questions considered at the Conference.

^{50a} Except from minutes of session of May 24, 1928: "Dr. Ayala then stated that he is leaving for Paraguay on Sunday, May 27, and that Dr. Gerónimo Zubizarreta will act as Chairman of the Paraguayan Delegation, of which he is now a member."—*Proceedings of the Commission*, p. 359.

⁵¹ Translation from *Proceedings of the Commission*, p. 403, is substituted for the file translation.

Consequently, they are of the opinion, in accordance with the provisions of the Protocol signed in Buenos Aires on April 22, 1927, that the moment has arrived to inform the Government of the Argentine Republic concerning the reasons for their dissension; they do therefore

RESOLVE:

To suspend the Conference until a new agreement is reached by the Foreign Offices of both countries, and they leave on record their recognition of the high impartiality with which the Argentine Government has attended the deliberations held until now.

The Commission of Plenipotentiaries of Bolivia states:

I. That it fully accepts the terms of the final act proposed by the Argentine Observer, Dr. Isidoro Ruiz Moreno, under authority from his Government, and reaffirms the four points embodied in said act:

1. That the settlement of the controversy should be based upon the *uti possidetis* of 1810;

2. That, in the event that it proves impossible to arrive at a direct understanding, it will be necessary to determine the bases of legal arbitration;

3. That the advances that have been made by either country have created a *de facto* situation that confers no right and that cannot be submitted to the arbitrator in order to support their respective contentions;

4. That in view of the present state of the negotiations it refers their continuation to the Foreign Offices.

II. That since the Paraguayan Delegation did not accept the proposal for demilitarization, selected by the Bolivian Commission of Ministers Plenipotentiary from the two optional terms of the second point of the friendly suggestion made by the Argentine Government, nor the third point of said suggestion, the Government of Bolivia maintains unalterable its opinion as regards the arbitral zones abolished by mutual agreement in 1913, and with regard to the *status quo* of possessions agreed upon in 1907, reserving its right to present claims for any advances which may have overstepped the bounds of those possessions.

III. That since the conditions under which said *status quo* was agreed upon have changed, it deems it necessary that new formulae be considered which shall meet the present situation and the legitimate interests of both countries.

IV. That in compliance with the agreement entered into by Bolivia and Paraguay in the Gutiérrez-Díaz León Protocol, the arbitration cannot be an indeterminate one, but should devolve upon zones fixed by mutual agreement, and that since both parties have declared themselves in favor of a juridical arbitration, no possession, regardless of the time that has elapsed, can prevail against legitimate rights founded upon titles and acts emanating from the Spanish Crown, in determining the jurisdiction of the Audiencia of Charcas and the territory of the Province of Paraguay.

The Commission of Plenipotentiaries of Paraguay states:

I. That the representatives of Bolivia have not accepted the proposal made by the exponents relative to the dismantling and abandonment of the fortins founded by both countries subsequent to 1907.

II. That said proposal corresponded with the idea suggested by the Argentine Republic of demilitarizing the military posts or positions referred to, and which was accepted, in principle, by the Governments of Paraguay and Bolivia.

III. That the representatives of Bolivia confined themselves to proposing the reduction and balancing of the military forces of the fortins of both countries.

IV. That the representatives of Paraguay rejected the Bolivian proposal as being insufficient and hardly in accord with the Argentine suggestion.

V. That the representatives of both countries stated that they accepted arbitration as a means of settling the boundary controversy, but disagreed fundamentally as to the manner of classifying and stating the question.

The Paraguayan Delegates considered the question, in accordance with all the antecedents, as a boundary dispute between the territory of the former Province of Paraguay, which extends west of its river and to which the Republic of Paraguay is successor, and the territories of the former District of Chiquitos and of the entities or provinces of Alto Perú out of which Bolivia was formed.

The proposal of the Bolivian Delegates implied the redemption of the entire territory of the Chaco Boreal, with the still more grave feature of fixing as a disputed and arbitrable zone the territory included between the parallel coinciding with the mouth of the Apa River and the Pilcomayo River up to 59° [west] of Greenwich, and to leave to Bolivia, without discussion, all the rest of the territory of that geographic unit. This Bolivian proposal was rejected absolutely by the Delegates of Paraguay as being contrary to the sovereignty of this country and all the diplomatic antecedents relative to the settlement of the controversy.

VI. That a new *modus vivendi* not having been agreed upon, the Delegation of Paraguay reaffirms and ratifies the legal existence of the *status quo* agreed upon in 1907 as well as its scope and meaning in accordance with its thesis set forth in previous conferences, and reserves the right of its country to present claims for the violation of said pact.

VII. That the Delegation of Paraguay accepted the formula suggested by the Argentine Observer for the Act of Suspension of the Conference relative to arbitration and the *uti possidetis* of 1810, but it was unable to agree to item III of said formula because the representatives of Bolivia considered it tantamount to a condemnation of all the possessory acts, however old these may have been, and not subject to the zone of the *status quo*.

Upon closing, both Delegations agree in declaring that the dispute in which their respective countries are involved shall be settled only by pacific means, except in the case of self-defense.

In testimony whereof, they sign this Act in triplicate in the City of Buenos Aires, on the twelfth day of July nineteen hundred and twenty-eight.

[Enclosure 2—Translation ⁵²]

Argentine Proposals of December 1927, as Published in "La Prensa" of July 13, 1928

1. That Paraguay agree to proceed directly to arbitrate the fundamental question.

2. That Bolivia and Paraguay proceed to demilitarize all their fortins or to withdraw those that are opposite each other to a distance of fifty kilometers each; this act to be verified by a military commission from a third country.

3. That it be declared that the advances which either country may have made have created a *de facto* situation which does not give them any right nor can said advances be alleged before the arbitrator as the basis of their claims.

711.3412 Anti-War/1: Telegram

The Minister in Bolivia (Kaufman) to the Secretary of State

LA PAZ, September 10, 1928—4 p. m.

[Received 4:05 p. m.]

41. The Bolivian Government through the Minister of Finance has requested me to ask the Department to use its best course to obtain the adhesion of Paraguay to the multilateral treaty for the renunciation of war,⁵³ since the Bolivian Government thinks that such action would facilitate the settlement of Bolivian-Paraguayan boundary question.

KAUFMAN

711.2412 Anti-War/6: Telegram

The Minister in Bolivia (Kaufman) to the Secretary of State

LA PAZ, October 12[11?], 1928—1 p. m.

[Received October 12—10:30 a. m.]

46. Bolivia has signed today and delivered to the Legation the multilateral treaty which will be forwarded by pouch.^{53a} The President and the Acting Minister of Foreign Affairs Palacios requested my presence at the Palace yesterday afternoon and informed me that

⁵² Translation from *Proceedings of the Commission*, p. 333, is substituted for the file translation.

⁵³ See pp. 1 ff.

^{53a} See despatch No. 58, Oct. 12, 1928, from the Chargé in Bolivia, p. 220.

Paraguay has violated the mutual understanding in both [*sic*] construction of three forts in disputed territory. Both requested me to notify the Department in the effort to use good influence with Paraguayan Minister in the hope of stopping construction until such time as the matter can be arranged amicably. My answer was that I would convey the foregoing message to the Department.

KAUFMAN

724.3415/222 : Telegram

The Secretary of State to the Minister in Bolivia (Kaufman)

WASHINGTON, October 12, 1928—6 p. m.

24. Your 46, October 12, 1 p. m. Your reply to the Bolivian officials is approved. Take no further action without definite instructions.

KELLOGG

724.3415/222 : Telegram

The Secretary of State to the Minister in Paraguay (Kreeck)

WASHINGTON, October 12, 1928—6 p. m.

9. The Department has been informally advised through the Bolivian Legation that Paraguayan troops are building a fortress 30 kilometers from the Bolivian fortress Sorpresa, located 1 kilometer from Chamar Lagoon. At the northwest of Arce and 40 kilometers from the said point they are also building another fortress called Boqueron. The Legation calls attention to the seriousness of the situation which may arise through construction of these fortresses so close to those of Sorpresa and Arce. Report by telegraph any information in your possession regarding matter without discussing it with any officials.

KELLOGG

724.3415/224 : Telegram

The Minister in Paraguay (Kreeck) to the Secretary of State

ASUNCIÓN, October 16, 1928—2 p. m.

[Received 11:28 p. m.]

15. Information in Department's telegram No. 9 exaggerated. So-called fortresses only observation outposts, having only 25 to 30 men. No fortifications other than light arms. All Paraguayan fortifications are in indisputable territory of Paraguay. Full report by mail.

KREECK

724.3415/239 : Telegram

The Minister in Paraguay (Kreeck) to the Secretary of State

ASUNCIÓN, December 6, 1928—11 a. m.

[Received 10:55 p. m.]

25. Hostilities have commenced between Bolivian and Paraguayan soldiers near the Paraguayan Fort Galpon.

Bolivia has been constructing a new fort near Galpon. On December 5th a troop of Bolivian soldiers advanced near Fort Galpon. At first friendly, later opened fire which was returned by the Paraguayans causing many casualties dead and wounded; Bolivians withdrew, repulsed.

Paraguay, in the interest of peace and having accepted the Kellogg Pact, desires Washington to invoke the convocation of the Commission of Inquiry provided for in the Gondra Treaty to which both countries are parties.⁵⁴ It is suggested the Commission at Montevideo assume charge inquiry because of its convenience to both Governments.

Casualties follow in this Legation's despatch No. 661; complete picture of conditions set forth therein, consult it; also very important despatch No. 671.⁵⁵

KREECK

724.3415/239 : Telegram

The Secretary of State to the Minister in Paraguay (Kreeck)

[Paraphrase]

WASHINGTON, December 7, 1928—4 p. m.

13. Your telegram No. 25, December 6, 11 a. m. Although I should be pleased to do everything I properly can do which would be acceptable to both parties with the view of bringing about a friendly settlement of the present difficulties or of averting further hostilities, I cannot, of course, invoke the convocation of a Commission of Inquiry under the Gondra Treaty in the case of a dispute to which the Government of the United States is not a party. It will be necessary, therefore, in accordance with article 3 of the Gondra Treaty, for the Paraguayan Government, if it cares to do so, to request the convocation of the Commission of Inquiry. The Paraguayan Chargé has just called and left a note describing the recent incident at Fort Galpon,⁵⁶ but he

⁵⁴ For correspondence concerning the establishment of permanent commissions under the treaty, see pp. 644 ff.

⁵⁵ Neither despatch printed.

⁵⁶ Note not printed.

has made no request for any action such as you say the Paraguayan Government desires the Government of the United States to take.

The Department has not yet received your despatches Nos. 661 and 671.⁵⁷

KELLOGG

724.3415/244 : Telegram

The Minister in Paraguay (Kreeck) to the Secretary of State

ASUNCIÓN, December 7, 1928—4 p. m.

[Received December 9—12:25 a. m.]

26. Continuing telegram No. 25.⁵⁸ Dr. Eusebio Ayala, former Paraguayan Minister in Washington, is now on his way to Montevideo officially to request Uruguayan Government to convoke Commission of Inquiry provided by the Gondra Treaty. Official Paraguayan note to Bolivia gives notice of its action in the following words:

“My Government, on deploring the necessity in which it has been placed by resorting to this proceeding, is pleased in declaring its decision of not using its means of defense except in case of being compelled to repel an aggression and its plan of confiding the solution of its questions to legal arbitrators. Your Excellency’s Government should give this note the status of the official communication to which the second article of the treaty mentioned refers.”

Presence of Bolivian troops at Menonipple [*Mennonite*] colony reported despatch No. 665 en route⁵⁹ is additional evidence of Bolivian aggression. Latest information concerning conflict: Bolivian forces, 22 dead or critical; wounded unknown; 29 taken prisoner, including two officers. Paraguayan: no fatalities, several wounded. Bolivian troops in district of conflict, 4800; Paraguayan, 1600. Quiet reigns, acclaim for peace is everywhere here.

KREECK

724.3415/243 : Telegram

The Minister in Paraguay (Kreeck) to the Secretary of State

ASUNCIÓN, December 8, 1928—9 p. m.

[Received December 9—12:30 p. m.]

27. Bolivia’s answer to Paraguay’s request for convocation of Gondra Treaty was to give passport to Paraguayan Minister at La Paz. Paraguay will give Bolivian Minister his passport tomorrow.

KREECK

⁵⁷ Neither printed.

⁵⁸ *Ante*, p. 681.

⁵⁹ Despatch No. 675, Dec. 5 (not printed) is probably the despatch under reference.

724.3415/248 : Telegram

*President Guggiari to President Coolidge*⁶⁰

[Translation]

ASUNCIÓN, December 9, 1928.

I perform a duty of international solidarity in informing Your Excellency that following a frontier incident between Paraguayan and Bolivian military troops, the Bolivian Government delivered passports to the Chargé of our Legation in La Paz as a reply to the communication in which my Government informed it of its determination to resort to the proceedings established in the treaty to prevent conflicts between American States adopted by the Fifth International Pan American Conference, and of which our two countries are signatories. I salute Your Excellency with my highest and most cordial consideration.

JOSE P. GUGGIARI

724.3415/244a : Telegram

The Secretary of State to the Chargé in Bolivia (Butler)

[Paraphrase]

WASHINGTON, December 9, 1928—6 p. m.

31. The Bolivia-Paraguay situation is giving the Department much concern. The Department hesitates to make any suggestions for fear it may complicate the situation, since the Government of Argentina has been mediating this question for many months and any suggestions from the Government of the United States might be misunderstood. However, it is the understanding of the Department that Paraguay has suggested the constitution of Commission of Inquiry under the Gondra Treaty, and the Department is very anxious to learn immediately Bolivia's attitude in regard thereto. Please expedite reply.

KELLOGG

724.3415/244b : Telegram

The Secretary of State to the Ambassador in Argentina (Bliss)

[Paraphrase]

WASHINGTON, December 9, 1928—6 p. m.

62. The Department is sending the following telegram to the Legation in Bolivia:

[Here follows the text of telegram No. 31, December 9, 6 p. m., printed *supra*.]

⁶⁰ Received in the Department of State December 11.

Please telegraph immediately your views as to whether any suggestion from the Government of the United States to the Government of Bolivia along the line of accepting the constitution of a Gondra commission would be misunderstood in Argentina. Of course I do not wish to interfere with the Argentine mediation. What action, if any, does the Government of Argentina contemplate in the present situation?

KELLOGG

724.3415/246 : Telegram

The Minister in Paraguay (Kreeck) to the Secretary of State

ASUNCIÓN, December 9, 1928—9 p. m.

[Received December 11—12:22 a. m.]

28. By the breaking of diplomatic relations Bolivia refuses to accept the Gondra Treaty as set forth by Paraguay. The Paraguayan Government has the opinion that Bolivia must accept the provisions of the Gondra Treaty to which both countries are signatory parties. In the interest of peace and the purpose of the Kellogg Pact, it is believed that the American Government should counsel Bolivia to accept the provisions established in that treaty.

KREECK

724.3415/245 : Telegram

The Chargé in Bolivia (Butler) to the Secretary of State

[Paraphrase]

LA PAZ, December 10, 1928—11 a. m.

[Received 2:15 p. m.]

56. Department's 31, December 9, 6 p. m. The Government of Paraguay suggests commission of investigation under the Gondra Treaty. An official communication from the Government of Bolivia states that such an investigation would be incompatible with the dignity of Bolivia in view of the unprovoked aggression by Paraguay. The Government of Bolivia holds that the Chaco question is under the Gutierrez-Diaz Leon protocol, and it considers Paraguay's action a motive for rupture of diplomatic relations. The Government of Bolivia refuses conciliation which does not include prior and full reparation for outrage to its sovereignty and dignity. Foreign Office states there is no further information. Attitude of Government is supported by Senate resolution. A large popular demonstration against Paraguay took place in La Paz on Sunday.

BUTLER

724.3415/247 : Telegram

The Ambassador in Argentina (Bliss) to the Secretary of State

[Paraphrase]

BUENOS AIRES, December 10, 1928—3 p. m.

[Received 7:30 p. m.]

93. Your telegram No. 62, December 9, 6 p. m. President Irigoyen just told me that recently, before the present Bolivia-Paraguay incident occurred, he had offered his services as friendly adjuster, but not as arbitrator, of the differences between Bolivia and Paraguay. President Irigoyen said that Paraguay immediately accepted his offer, frankly and unreservedly, but that Bolivia, while expressing its appreciation for the friendly and timely offer, referred to the suspended meetings of the representatives of the two countries previously held at Buenos Aires, which Bolivia considered were still open to continuation. President Irigoyen said that he had since made no further move, but had held himself ready to act as a friendly adviser in reaching a solution of the problem if Bolivia and Paraguay so desired.

I gathered that President Irigoyen would not desire the Government of the United States to advise either party to accept his offer. I therefore counsel that if you take any action, it be along the lines of urging the Governments of both countries to find a way of settling their differences amicably.

Foreign Minister read to me two telegrams from the Minister of Argentina in Bolivia which reported a very tense situation in Bolivia, with serious possibilities of war; that Bolivia had received from Chile an assurance of neutrality in case of war, and that Chile had offered her good offices as mediator.

The Foreign Minister also told me that he had been informed that the Government of Chile intended to address identic notes to the Governments of Argentina and Brazil stating that it considered Bolivia to be the aggressor.

BLISS

724.3415/253a : Telegram

The Secretary of State to the Ambassador in Argentina (Bliss)

WASHINGTON, December 10, 1928—8 p. m.

64. My December 9, 6 p. m. The Conference of Conciliation and Arbitration at its inaugural plenary session this morning passed a resolution regarding Bolivian-Paraguayan difficulty, the text of which has doubtless been cabled down by the press.⁶¹ Copies have been

⁶¹ For text of resolution, see telegram dated Dec. 10 to the Bolivian Acting Minister for Foreign Affairs, *infra*. For correspondence concerning the conference, see pp. 621 ff.

sent to Ministers of Foreign Affairs of Bolivia and Paraguay. It is therefore of the utmost importance to the Department to know what action if any is being taken by Argentina. The Committee will meet December 11, 4 p. m. If possible, please cable before that time any information available regarding Argentina's attitude and action.

KELLOGG

724.3415/302 : Telegram

The Chairman of the International Conference of American States on Conciliation and Arbitration (Kellogg) to the Bolivian Acting Minister for Foreign Affairs (Palacios) ⁶²

[WASHINGTON,] December 10, 1928.

As directed by the International Conference of American States on Conciliation and Arbitration which convened in the city of Washington this morning, I have the honor to transmit herewith the following resolution which was unanimously adopted by this Conference:

"(1) To express to the Governments of the sister Republics of Bolivia and Paraguay the keen desire and the hope which it entertains that their present differences shall be arranged pacifically and in a spirit of justice, concord and of fraternity;

"(2) To convey in a cordial and respectful manner to those Governments, in conformity with the tradition of this continent and with the general practices of modern international law that nations under circumstances such as the present have at their disposal organisms and means adequate and efficient to find solutions which harmonize the preservation of peace with the rights of States;

"(3) To transmit this resolution by telegraph to the Governments of Bolivia and Paraguay;

"(4) To form a Committee which shall report to the Conference with respect to the conciliatory action which, if necessary, it might render cooperating with the instrumentalities now employed in the friendly solution of the problem."

FRANK B. KELLOGG

724.3415/247 : Telegram

The Secretary of State to the Ambassador in Argentina (Bliss)

[Paraphrase]

WASHINGTON, December 11, 1928—6 p. m.

65. Your telegram No. 93, December 10, 3 p. m. The Government of the United States does not intend to take any independent action. It certainly would not take any action which would conflict in any way with the commendable efforts of the Government of Argentina to adjust the difficulties between Bolivia and Paraguay. The

⁶² The same, on the same date, to the Paraguayan Minister for Foreign Affairs.

only thing which was done here was the forwarding by the Conference of the resolution unanimously adopted yesterday by all the delegates. I simply signed the resolution as Chairman of the Conference. You will notice that this is along the lines suggested in your telegram.

KELLOGG

500.C 112/437 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, December 11, 1928—7 p. m.

[Received December 11—4:15 p. m.]

119. Member of Secretariat telephoned from Lugano that Council had adopted resolution in afternoon session which had first been released to the press. Under this Briand, as acting [President] despatched identical notes to the Paraguayan and Bolivian Governments inviting attention to the frontier incidents between them which constituted "menace to peace" and recalled their obligations under the Covenant as members of the League to settle their differences by pacific means.⁶³ The messages made it clear that no specific means were recommended.

My informant stated that the members of the Council had been convinced that they would be delinquent if they evaded their clear duty in this connection; nevertheless they had all borne deeply in mind the relation of the United States to this question and had endeavored so to frame the message that it could not be interpreted as contravening the Monroe Doctrine or conflicting with any possible action on our part.

WILSON

724.3415/302 : Telegram

The Paraguayan Minister for Foreign Affairs (Zubizarreta) to the Chairman of the International Conference of American States on Conciliation and Arbitration (Kellogg)

[Translation]

ASUNCIÓN, December 11, 1928.

[Received December 11—9:50 p. m.]

I have had the honor of receiving your cable transmitting the expression of wishes of the Conference on Arbitration under your worthy chairmanship, inspired by noble ideals of comity and fraternity which my Government is the first in furthering. On con-

⁶³ League of Nations, *Documentation Concerning the Dispute Between Bolivia and Paraguay* (C. 619.M.195.1928.VII), p. 3.

veying to that Conference, through Your Excellency's high intermediary, that this Government fully shares those feelings, it takes pleasure in stating that upon requesting the call of the Commission created by the treaty signed May 3, 1923 at the International Conference of American States the Paraguayan Government has offered effective evidence thereof. Unfortunately the Paraguayan Government has not met until this moment with the just and due correspondence on the part of Bolivia, who, upon challenging a peaceful procedure of justice, announces her determination to exact prior satisfaction which she says is due her because of facts the investigation of which she refuses, thus setting herself as judge of her own actions and of alleged offenses. Both my country and my Government can tell the world at large that if peace were disturbed the responsibility for such a crime of *lese* civilization and humanity could justly be ascribed to Bolivia. Paraguay is and has always been disposed to submit to legal means the settlement of her difficulties.

GERONIMO ZUBIZARRETA

724.3415/302: Telegram

The Bolivian President (Siles) and the Acting Minister for Foreign Affairs (Palacios) to the Chairman of the International Conference of American States on Conciliation and Arbitration (Kellogg)

[Translation]

LA PAZ, December 11, 1928.

[Received December 11—11:10 p. m.]

I have the honor of referring to the cable in which Your Excellency on behalf of the International Conference on Conciliation and Arbitration invites Bolivia to follow a procedure of peace and international justice in her differences with the Republic of Paraguay and I am thankful the valuable and significant wishes expressed by the Conference which the people and Government of Bolivia appreciate in their lofty and significant meaning. The whole international tradition of Bolivia is inspired by a positive and sincere devotion to the principle of arbitration and to the condemnation of war as a political system towards her neighbors, the involuntary case of mere self-defense excluded, and Bolivia shall not depart from these standards of civilized life and human solidarity. Attacked in this moment in her sovereignty and dignity by military forces of the Paraguayan army in a violent and unexpected aggression which gives the lie to and shatters the feelings of American brotherhood, Bolivia requires a satisfaction that may erase that offense and give back to the Bolivian people serenity and confidence enough to permit its

acceptance of the determinations of this Government in favor of solutions to harmonize the preservation of peace with the rights of States. There are commitments between Bolivia and the Republic of Paraguay to accept an arbitration at law on bases to be covenanted and determined for the controversy now dividing them, and there is a suggestion by the Argentine Government that both Bolivia and Paraguay accepted as the procedure to define the controversy, and Bolivia shall not deviate from those commitments. Following the satisfaction which she expects within the strict standards of international law Bolivia will always be disposed to follow the noble inspirations of the principles referred to by Your Excellency and to which she is devoted and of the countries whose friendship she deeply appreciates.

SILES
ALBERTO PALACIOS

724.3415/253 : Telegram

The Minister in Paraguay (Kreeck) to the Secretary of State

ASUNCIÓN, December 11, 1928—2 p. m.

[Received December 12—6:13 a. m.]

29. At the meeting of the diplomatic corps today it was the unanimous opinion that only the American Government could cause Bolivia to recognize its treaty obligations and that its failure to do so would cause the Gondra Treaty and the Kellogg Pact to be of no value.

KREECK

724.3415/265 : Telegram

The Minister in Paraguay (Kreeck) to the Secretary of State

ASUNCIÓN, December 12, 1928—11 a. m.

[Received December 14—11 a. m.]

30. Paraguayan Minister for Foreign Affairs has received reliable information that coincident with the withdrawal of the Bolivian delegates from the Conciliation and Arbitration Conference at Washington,⁶⁴ Bolivia at the same time obtained from Chile assurances of its neutrality in the event of war, and immediately thereafter issued an order, now in actual operation, for the concentration of troops at Suarez. An ultimatum or declaration of war will be made by Bolivia

⁶⁴The Bolivian Minister in Washington temporarily withdrew from the Conciliation Conference, but apparently was instructed on December 11 to resume his place (file No. 710.1012 Washington P43/338).

when concentration is effected. Paraguayan Minister for Foreign Affairs feels that war is imminent unless the United States acts to prevent.

KREECK

724.3415/248 : Telegram

President Coolidge to President Guggiari

WASHINGTON, December 12, 1928.

I have received Your Excellency's telegram of December 9 in relation to the regrettable conflict that has taken place between Paraguay and Bolivia and, in thanking Your Excellency for advising me regarding this matter, I desire to express the most fervent hope that the difficulty between your country and Bolivia will soon be composed to the entire satisfaction of both parties.

CALVIN COOLIDGE

724.3415/255a : Telegram

The Secretary of State to the Minister in Bolivia (Kaufman)

[Paraphrase]

WASHINGTON, December 12, 1928—1 p. m.

33. Please telegraph the Department immediately as completely as possible the situation with regard to measures being taken to bring about a settlement. Has the Government of Argentina taken any action to compose the present difficulty? It is important that we know exactly what the Government of Argentina is doing in the matter in order that the Conference may be informed as to any action that would conflict with such measures, or which might be misunderstood as interference in the mediation undertaken by the Government of Argentina.

KELLOGG

724.3415/255b : Telegram

The Secretary of State to the Ambassador in Argentina (Bliss)

WASHINGTON, December 12, 1928—1 p. m.

66. It is urgently necessary for Department to know exactly what, if anything, Argentina is doing at the present time. It is not clear from your No. 93, December 10, 3 p. m. whether Argentina is exerting her good offices or is mediating in this question. If the Argentine Government has done nothing since the recent outbreak, I presume it would not take umbrage at any action taken by the Conference

with a view to composing the present difficulty. If, on the other hand, Argentina has taken some action, the Conference would naturally want to take that into consideration.

KELLOGG

724.3415/255c : Telegram

The Secretary of State to the Minister in Paraguay (Kreock)

WASHINGTON, December 12, 1928—1 p. m.

14. Your 28, December 9, 9 p. m.; 29, December 11, 2 p. m., and previous cables. The Gondra Treaty has not been ratified by Bolivia and hence is not in effect as between Bolivia and Paraguay, nor is the Kellogg Pact in force, so neither of these treaties can be invoked in the present instance.

[Paraphrase.] Please telegraph the Department immediately as completely as possible the situation with regard to measures being taken to bring about a settlement. Has the Government of Argentina taken any action to compose the present difficulty? It is important that we should know exactly what the Government of Argentina is doing in the matter in order that the Conference may be informed as to any action that would conflict with such measures, or which might be misunderstood as interference in the mediation undertaken by the Government of Argentina. [End paraphrase.]

KELLOGG

724.3415/259 : Telegram

The Ambassador in Argentina (Bliss) to the Secretary of State

[Paraphrase]

BUENOS AIRES, December 12, 1928—8 p. m.

[Received 9:20 p. m.]

95. Foreign Minister states that the Government of Argentina is doing nothing at the present time in the way of mediation and has no objection to any action which the Conference may take.

WHITE for BLISS

724.3415/267a : Telegram

The Secretary of State to the Minister in Bolivia (Kaufman)

WASHINGTON, December 13, 1928—7 p. m.

34. The International Conference of American States on Conciliation and Arbitration will hold a plenary session tomorrow morning at 11 o'clock to receive the report of the Special Committee appointed by the Conference to consider the situation which has developed between Bolivia and Paraguay. I understand that this report will rec-

commend to the Conference that the Conference tender its good offices to the Governments of Bolivia and Paraguay for the purpose of aiding them in providing such conciliatory measures as may be found appropriate to the end that conflict may be avoided and peace maintained. Please go at once to the President of the Republic and give him the above information and tell him that I earnestly urge that nothing shall be done to make abortive the tender of good offices by the Conference which I hope will be found welcome.

Like message being sent to Paraguay.⁶⁵

KAUFMAN

724.3415/268 : Telegram

The Minister in Bolivia (Kaufman) to the Secretary of State

LA PAZ, December 14, 1928—noon.

[Received 1:40 p. m.]

61. Department's telegram 34. President states that as soon as tender of good offices is received he will call Cabinet meeting and that he personally will use all influence for peaceful solution.

New Minister for Foreign Affairs and Minister Palacios⁶⁶ requested me to determine the Department's attitude concerning offer of mediation from League of Nations. Bolivian Government must send reply today and it is anxious to retain friendly cooperation of the United States. I am convinced that the Bolivian Government will follow any suggestions of the Department. Please reply by telegraph immediately.

KAUFMAN

724.3415/276 : Telegram

The Minister in Paraguay (Kreeck) to the Secretary of State

ASUNCIÓN, December 14, 1928—8 p. m.

[Received December 15—11 p. m.]

32. Answering the Department's telegram 15, December 13, 7 p. m.,⁶⁷ received at the Legation December 14, 3 p. m., inexcusable delay for double priority message.

I immediately advised the President and the Minister of Foreign Affairs who expressed gratification of the act and dispatched their accord and acceptance in an official note numbered 970 which was

⁶⁵ Sent as telegram No. 15.

⁶⁶ Alberto Palacios was Acting Minister; the new Minister was Tomas Manuel Elio.

⁶⁷ See footnote 65 *supra*.

received at the Legation at 6 o'clock this afternoon. Text of the note follows:

"Mr. Minister: I have had today the pleasure of receiving the visit of Your Excellency made with the object of transmitting to me a message from the Most Excellent Mr. Kellogg which expresses the anticipation that the Conference of Conciliation and Arbitration may offer its good offices to Paraguay and Bolivia for the settlement of the conflict pending between the two countries and that he desires that every act opposed to the maintenance of peace be avoided.

It is superfluous to repeat to Your Excellency that which I have said in divers official documents of extensive diffusion which is that my Government does not consider itself culpable for the incident which occurred the fifth of the month near Fort Galpon, that she has taken the lead in proposing that there be opened an impartial investigation of the evidence to discern the responsibility and finally that she does not avoid any proceeding destined to solve the conflict by peaceable means.

I fulfill with pleasure a charge from the Most Excellent President of the Republic of Paraguay in saying to you that Paraguay will not be the one who breaks the bounds of sanity or provokes a war.

In thanking Your Excellency, etc., signed Zubizarreta, Paraguayan Minister for Foreign Affairs."

In the following words the President charged me to make known to Secretary Kellogg his personal appreciation of the offer:

"Tell your Government I give my most solemn promise that nothing shall be done by this Government to mar or hinder the tender of good offices by the Conference which I heartily welcome."

Notice of Bolivian mobilization of troops on the Pilcomayo has reached Asuncion.

Through the Spanish Chargé d'Affaires, the Spanish Government offers its good offices "although it recognizes that exhortation to peace made by adequate organisms and believe as the mother country that it fulfills an indispensable and very honorable duty in uniting its voice to that of said organisms."

Confidentially, it was stated European intervention is not desired.

KREECK

724.3415/268 : Telegram

The Secretary of State to the Minister in Bolivia (Kaufman)

[Paraphrase]

WASHINGTON, December 14, 1928—4 p. m.

36. Your telegram No. 61, December 14, noon. Since the Conference today by unanimous action (except Bolivia which was not present and Paraguay which refrained from voting) offered its good offices, and since I am Chairman of the Conference, I do not

desire to suggest anything which might interfere with the action of the Conference or the acceptance of its good offices which I am exceedingly anxious to have Bolivia give.

KELLOGG

724.3415/271b, 302 : Telegram

The Chairman of the International Conference of American States on Conciliation and Arbitration (Kellogg) to the Bolivian Minister for Foreign Affairs (Elio) ⁶⁸

[Translation]

WASHINGTON, December 14, 1928.

I have the honor to transmit to your Excellency the following report of the Special Commission of the Conference together with a resolution, both adopted unanimously by the International Conference of American States on Conciliation and Arbitration, except Paraguay, which abstained from voting and Bolivia, which was not present.

The report says:

The Committee charged with reporting to the Conference on the conciliatory action that may be appropriate with respect to the incident between the Republics of Bolivia and Paraguay, after being informed of the replies received from both nations to the cable message sent by the Chairman of this Conference on Conciliation and Arbitration, considers that the Conference in plenary session is called upon to decide upon the course which should be followed.

Nevertheless, the Committee deems it to be its duty to suggest to the Conference a concrete proposal to the end that the principles of conciliation and arbitration in support of which it was convened may find their most sincere and their friendliest application in this case.

In accordance with American tradition, in general, as shown by the antecedents, expressions of hope and Pan American resolutions, and also in conformity with the measures adopted during the last years for the maintenance of world peace, the Conference may take a prudent and effective course with the assurance of general approval for its endeavor.

The friendly proceedings of an Assembly of Sister Republics must find favorable echo and most sympathetic reception, especially in the spirit of the nations directly interested in the incident. Those proceedings show the degree of solidarity and affection by which the other countries of the hemisphere feel bound to them.

Animated by these sentiments, and without assuming any political attitude beyond the appropriate purposes of this Conference, the Committee proposes to this Assembly the Conference proffer its good offices to the interested parties for the purpose of promoting suitable conciliatory measures with the aim of preserving the principle of conciliation and arbitration as a solid foundation of international life.

⁶⁸ The same, on the same date, to the Paraguayan Minister for Foreign Affairs.

The Resolution says

The Conference, therefore, resolves:

To offer to the interested parties its good offices with the object of promoting adequate conciliatory measures to maintain the principle of conciliation and arbitration as the solid foundation of international life.

FRANK B. KELLOGG

724.3415/282 : Telegram

The Minister in Paraguay (Kreeck) to the Secretary of State

ASUNCIÓN, December 16, 1928—2 p. m.

[Received December 18—3:35 a. m.]

34. Paraguayan Foreign Office has advised me of Bolivian attack, airplane made yesterday afternoon, December 15th, upon Bahia Negra. Bombs were dropped but failed to explode; later opened rapid fire but no casualties reported.

At the same time Bolivian troops attacked three Paraguayan positions in Central Chaco, located Fort Lopez and outposts Rivarola and General Genes. Paraguayan troops withdrew before Bolivians in obligation not to provoke hostilities. In view of attacks made, the President of Paraguay has called all citizens 18 to 28 years of age report for duty. Important confidential message follows.

KREECK

724.3415/285 : Telegram

The Minister in Paraguay (Kreeck) to the Secretary of State

[Paraphrase]

ASUNCIÓN, December 16, 1928—2 p. m.

[Received December 18—3:43 a. m.]

35. Good offices of the Conference are being considered by the Paraguayan Cabinet in session this morning. The delay in accepting is due to a report from Buenos Aires that Bolivia has accepted mediation of Argentina, and also to a report that Argentina has not withdrawn in favor of the Conference. Paraguay has telegraphed to Doctor Ayala in Buenos Aires to ascertain definitely from President Irigoyen action of Argentina, whether Argentina has or has not withdrawn, and to report immediately so that a reply can be sent to the Conference. I was requested to confer again with the Foreign Minister at 5 o'clock.

Certain strong measures must be taken immediately toward Bolivia, for Paraguay cannot stand idle in the face of an invasion. Present situation is very grave.

KREECK

724.3415/284 : Telegram

The Minister in Paraguay (Kreeck) to the Secretary of State

ASUNCIÓN, December 16, 1928—8 p. m.

[Received December 18—3:27 a. m.]

36. Paraguay accepts offer of Conference; Minister of Foreign Affairs now drafting acceptance which will be telegraphed to Secretary Kellogg tonight.

Up to 8 o'clock p. m., Argentina had not answered Paraguay's question as to its attitude (see my telegram 35); situation desperate; Paraguay could not wait longer and acceptance given.

Blow against American peace has been struck; energetic and forceful measures must be employed against aggression and attacks of Bolivia, or Paraguay will be invaded. Minister of War permitted me to read intercepted Bolivian radiogram directing 10,000 troops be immediately mobilized on Pilcomayo. Another attack reported this afternoon, announcing resistance by Paraguayans and their retaking of fort lost yesterday. This locality is not far from American enterprise at Pinasco and Mennonite colonization. . . . Only prompt and extreme pressure upon Bolivia will achieve peace. Paraguayans, heretofore calm, now excited and exceedingly nervous and fearful.

KREECK

724.3415/275 : Telegram

The Minister in Bolivia (Kaufman) to the Secretary of State

LA PAZ, December 17, 1928—1 a. m.

[Received 3:40 a. m.]

62. Following instructions from the Department and pursuant to an interview with the Minister for Foreign Affairs, including Mr. Palacios and other members of Cabinet, I have the following to report:

That Bolivia will accept the good offices of the Pan American Conference within 48 hours. This delay is owing to the fact that certain prominent Bolivians are on the way to La Paz and, secondly, Bolivian Government has made inquiries of certain South American Republics asking advice whether to accept the League or the good offices of the Pan American Conference. Bolivian Government has furnished me the plan in advance upon which they would be willing to submit the present differences between both countries to the Pan American Conference.

Plan:

1st. The good offices of the Washington Conference would be accepted;

2nd. The Conference would nominate a commission composed of the representatives of the United States, Brazil, Argentina, Uruguay, Ecuador and Cuba;

3rd. The commission of good offices would proceed as follows:

- (a) To paralyze immediately the war actions in the Chaco;
- (b) Investigation of facts that have occurred so as to fix the resultant responsibilities;
- (c) Fixation of an arbitral zone in accordance with the Gutierrez-Diaz Leon pact pointing out concrete points of the arbitration *juris*;
- (d) Fixation of a *modus vivendi* guarantee by the Conference in order to avoid new clashes during the arbitration;
- (e) To put before The Hague or some other tribunal the arbitration matter.

4th. This plan has not as yet received Government approval. The Bolivian Government unofficially has requested me to ask Department to do all possible to have Brazil, Ecuador and the United States represented on the conciliation commission. They state that this request is made not because Bolivia asks any favoritism but because they desire the assurance of an unbiased judgment of her case.

KAUFMAN

724.3415/302 : Telegram

The Paraguayan Minister for Foreign Affairs (Zubizarreta) to the Chairman of the International Conference of American States on Conciliation and Arbitration (Kellogg)

[Translation]

ASUNCIÓN, December 17, 1928.

[Received December 17—11:30 a. m.]

I reply to the despatch with which your Excellency has honored me to transmit to me the offer of the good offices of the Pan-American Conference on Arbitration. At the moment when this Government was considering your Excellency's message and giving to it the weight of its high significance Bolivia invades our territory with numerous troops, attacks our vigilance posts and outposts by surprise and without previous notice of war, and bombards with airplanes our military positions. That is how Bolivia responds to the recommendation made to both countries that they do not commit acts which might aggravate the situation and obstruct the peace measures. All this, your Excellency, under the excuse that my country owes it reparations. Paraguay hastened to offer that a trial be opened before an impartial tribunal; it asked the facts of the conflict be investigated as an indispensable step for rendering a decision. Then it would have been in order to ascertain responsibilities and fix punishment. This measure of good sense Bolivia attempts to replace with a prior condemnation of the conduct of my country. Bolivia asks that Paraguay be condemned before being tried and this absurdity stirs the honest con-

science of my people. Peace is well worth another effort which might be added to those already made by my country to preserve same. This is how my Government understands it and although the previous and present attitude of Bolivia does not warrant any hopes it has instructed me to transmit its acceptance of the good offices offered by the Conference declaring loyally that it has ordered the mobilization of the army although as a simple defensive measure because the grave circumstances created by the conduct of Bolivia so demand it. I believe I fulfill a duty in informing that Conference that the illustrious Executive of the Argentine nation being deeply concerned about the situation created, offered his mediation which my Government hastened to accept and to which Bolivia has not assented until now.

GERONIMO ZUBIZARRETA

724.3415/302 : Telegram

The Bolivian Minister for Foreign Affairs (Elio) to the Chairman of the International Conference of American States on Conciliation and Arbitration (Kellogg)

[Translation]

LA PAZ, December 18, 1928.

[Received December 18—7 p. m.]

I have the honor of informing Your Excellency that the Government of Bolivia accepts the good offices of the Conference on Conciliation and Arbitration presided over by Your Excellency. In this regrettable conflict created by the unjustified aggression of Paraguay, the Government of Bolivia has confined itself to maintaining the attitude imposed upon it by the inescapable need of safeguarding its dignity and sovereignty which is adjusted to the strictest international principles and practices.

I must record the fact that Bolivia has not mobilized her Army, having confined herself to entrusting to her military guards in El Chaco the care and defense of the outposts threatened by Paraguay. The Conference knows that Paraguay after attacking Bolivia and with the purpose of dissimulating the gravity of her offense immediately had recourse to requesting the application of the Pan American Treaty of May 3, 1923, which had not been ratified by Bolivia, and which it was not possible for her to accept in view of the serious crisis of public opinion provoked in my country by that act of violence that denies the assurances of correction and of respect for international duties on the part of Paraguay.

On entering upon the good offices Bolivia requires that the attack to the Vanguardia outpost be investigated in the first term without

involving in this preliminary issue the basic questions of the dispute which are being submitted to arbitration in accordance with the procedure established by the Argentine suggestion of December, 1927, accepted by both countries.

I wish to inform Your Excellency that my Government has conveyed to the eminent President of Argentina, Señor Irigoyen, its acquiescence to his good offices in order to return to the procedure agreed upon in Buenos Aires for the settlement of the dispute between Bolivia and Paraguay.

Upon accepting the good offices of the Conference on Conciliation and Arbitration, Bolivia renders homage to the spirit of America and reiterates her adherence to the principles of justice with which her political conduct is inspired.

I salute [etc.]

TOMAS M. ELIO

724.3415/290 : Telegram

The Chargé in France (Armour) to the Secretary of State

PARIS, December 18, 1928—8 p. m.

[Received 10:55 p. m.⁶⁹]

419. Minister for Foreign Affairs summoned me to the Foreign Office this afternoon and informed me that as President of the Council of the League of Nations he wished our Government to be thoroughly conversant of everything that had been done up to the present by the Council of the League in endeavoring to settle the differences between Paraguay and Bolivia.

For this purpose he handed to me the correspondence exchanged between the President of the Council and the Paraguayan and Bolivian Ministers. These documents consist of the following:

[Here follows a list of 14 documents. For the texts, see League of Nations, *Documentation Concerning the Dispute Between Bolivia and Paraguay* (C. 619.M.195.1928.VII), sections 3 to 15, pages 3-11.]

As I am forwarding the only copies I have of these documents by the pouch which is just closing I have only been able to glance hastily at them. I imagine however that the Department is aware of their content if not their full text with perhaps the exception of documents numbers 13 and 14 which are of the most immediate interest.⁷⁰ Number 13 is Bolivia's reply to M. Briand informing him that the Bolivian Government has given orders to the chiefs of military posts to abstain from any advance or attack and to confine themselves to defensive measures. Document number 14 is the Paraguayan reply

⁶⁹ Telegram in two sections.

⁷⁰ Secs. 14 and 15, respectively, in League of Nations, *Documentation Concerning the Dispute Between Bolivia and Paraguay*.

and reiterates Paraguay's acceptance of the good offices of the Pan American Conference of Arbitration.

With these documents M. Briand handed me an unsigned memorandum headed "League of Nations" and dated Paris, December 18, 1928, a translation of which follows:

"If, in the very next days, the two Governments do not accept, under one form or another, a mediation which will allow of foregoing the regulation by specific means⁷¹ of the demand for reparations presented by the Bolivian Government and consequently excluding the possibility of new acts of hostility, the Council will find it difficult to avoid holding an extraordinary session, in fact it will be obliged to study the measures which it will be necessary to take either because war will have begun—or because it will be on the point of breaking out—between two Members of the League of Nations each of which seems to recognize no other mutual contractual obligation not to resort to war than the one resulting from the Covenant of the League of Nations by which they are equally bound.

The Council believes it to be true that in two directions, with high authority, efforts are now being put forth with a view to avoiding war and to solving by specific means existing difficulties. It is in this sense that the Argentine Government and the Pan American Arbitration Conference, now meeting at Washington under the Presidency of the Secretary of State of the United States, are acting. However, the Council has not received any official information from either.

The Argentine Government and the Governments represented at the Pan-American Conference are at the present moment completely informed as to the steps taken by the Council and the answers of the Governments of the two countries. In the interests of peace it seems essential in the eyes of the Council to coordinate perfectly the efforts of all those who are endeavoring to obtain a settlement of the controversy by specific [*pacific*] means.

For these reasons the President of the Council of the League of Nations, charged by the Council with following the development of the controversy, would consider it of the highest importance for the preservation of peace—the supreme goal which all must pursue—that the Government of the United States should be good enough to inform him as to its views with respect to the best measures to be taken by all those who are endeavoring to insure a specific [*pacific*] settlement of the controversy."

It was explained to me that the last paragraph asking for the views of "the Government of the United States" means our Government in its capacity as furnishing the President of the Pan-American Conference.

I was told that the Argentine Ambassador was handed an identical communication and also that the Paraguayan and Bolivian representatives had been respectively furnished with a copy of documents 13

⁷¹ Phrase garbled in transmission. The League of Nations text reads: "such mediation as will afford a likelihood of settling by pacific means."

and 14, *supra*. [Paraphrase.] The press has not been informed regarding the unsigned covering memorandum. The Foreign Office feared that it might be construed as a diplomatic note; whereas it was stressed that the communication of Briand had merely been recorded in this form because it afforded the surest means of avoiding any crossing of wires and at the same time elicited the fullest exchange of views in order to arrive at the end which was sought in common by all of the mediating agencies. [End paraphrase.]

ARMOUR

724.3415/301 : Telegram

The Chargé in France (Armour) to the Secretary of State

[Paraphrase]

PARIS, December 20, 1928—8 p. m.

[Received 8:02 p. m.]

427. My telegram No. 419, December 18, 8 p. m. This evening I was summoned to the Foreign Office by Briand. He informed me that now that the affair had been settled he could not let the occasion pass without congratulating you on the successful outcome.

I have interpreted his message as indicating a desire that you should know that the Council of the League considers that with the cessation of hostilities and the acceptance by both Governments of the good offices tendered by the Pan-American Conference such part as it has played in the matter has come to an end.

I told Briand that I had not failed to communicate to you his previous message which seemed to call for a reply (see the last paragraph of memorandum quoted in my telegram No. 419), but he indicated quite plainly that in the light of subsequent events this was no longer necessary.

I presume, however, that you will want to have some message conveyed to him in acknowledgment of this gesture on his part.

I presume that the Embassy may give any such message to the local press unless instructed to the contrary.

ARMOUR.

724.3415/391 : Telegram

The Secretary of State to the Chargé in France (Armour)

WASHINGTON, December 21, 1928—4 p. m.

430. Your 427, December 20, 8 p. m. The good offices of the Conference having been accepted no further observations would appear to be required.

KELLOGG

Colombia and Nicaragua ⁷²

717.2114/63: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 4, 1928—9 a. m.

[Received 12:55 p. m.]

67. The following telegram was sent Havana:

For White.⁷³ Your January 28, 7 p. m. At the request of Colombian Minister I called upon the President with him yesterday and repeated what I had already told the President about the Department's viewing with favor a settlement along the lines which Colombia had proposed. The President said that he would be very glad to have the matter settled in this way and the negotiations can be taken up immediately upon Cuadra Pasos'⁷⁴ return. He pointed out, however, that it will probably be impossible to conclude a treaty before the end of the present session of Congress which will mean that the matter will go over to the new administration unless a special session should be held.

EBERHARDT

717.2114/64

The Secretary of State to the Minister in Nicaragua (Eberhardt)

No. 333

WASHINGTON, March 23, 1928.

SIR: Referring to previous correspondence on the subject of a treaty between Nicaragua and Colombia to settle the dispute between those countries regarding sovereignty over the Mosquito Coast, Great and Little Corn Islands, and the San Andres Archipelago, there is enclosed herewith a draft of a treaty which the Colombian Minister has left with the Department,⁷⁵ saying that it will be proposed by the Colombian Minister in Nicaragua to the Nicaraguan Government to provide for a settlement of these controversies.

You may, if consulted by the Nicaraguan Government, state that this Government feels that the proposed treaty offers a very satisfactory and equitable solution of this controversy and it therefore hopes that it will receive the approval of the Nicaraguan Government.

There are likewise enclosed copies of a proposed exchange of notes between the Colombian Minister and the Secretary of State,⁷⁶

⁷² Continued from *Foreign Relations*, 1927, vol. I, pp. 322-331.

⁷³ Francis White, Assistant Secretary of State, then attending the Sixth International Conference of American States.

⁷⁴ Nicaraguan Minister for Foreign Affairs, then in Habana as chairman of the Nicaraguan delegation to the Sixth International Conference of American States.

⁷⁵ Draft not printed; it was signed without change on March 24. See p. 703.

⁷⁶ Vol. II, pp. 637 ff.

to be signed at the same time that the treaty between Nicaragua and Colombia are [*is*] signed. These notes provide for the maintenance of the *status quo* with respect to Serrana and Quita Sueño Banks and Roncador Cay and provides that the Government of Colombia will refrain from objecting to the maintenance by the United States of the services which it has established or may establish for aids to navigation, and the Government of the United States will refrain from objecting to the utilization, by Colombian nationals, of the waters appurtenant to the Islands for the purpose of fishing.

As this treaty recognizes Colombian [*Nicaraguan*]⁷⁷ sovereignty over Great and Little Corn Islands, which were leased to the United States for a term of ninety-nine years by Nicaragua in the Convention signed at Washington on August 5, 1914,⁷⁸ the Department feels that it would be a distinct advantage to have this proposed treaty concluded.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

717.2114/62

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 634

MANAGUA, *March 27, 1928.*

[Received April 18.]

SIR: With reference to my telegram No. 153 of today,⁷⁹ I have the honor to transmit herewith a copy and translation of the treaty signed on March 24 between the Governments of Nicaragua and Colombia. This treaty was approved by President Diaz this morning.

The Department will note that the treaty was signed not by the Nicaraguan Minister for Foreign Affairs but by the Subsecretary for Foreign Affairs. An effort had been made to negotiate the treaty before the return from Havana of Doctor Cuadra Pasos, in order that he might avoid responsibility for relinquishing Nicaragua's claims to the San Andres Archipelago, should his political enemies be disposed to make use of the treaty for partisan purposes. As it was found impossible to complete negotiations before Doctor Cuadra Pasos' return, it was apparently believed that he would avoid attack if he did not sign the treaty personally, although he is of course entirely responsible for the arrangement effected.

The Nicaraguan Government has desired that the signature of this treaty be kept absolutely secret, because it has feared that the Lib-

⁷⁷ Corrected on the basis of instruction No. 337, Mar. 27, 1928; not printed (file No. 717.2114/64 supp.)

⁷⁸ *Foreign Relations*, 1916, p. 849.

⁷⁹ Not printed.

erals would use the treaty as a political weapon if its contents should be divulged before the presidential elections.

I have [etc.]

CHARLES C. EBERHARDT

[Enclosure—Translation]

*Treaty Between Colombia and Nicaragua, Signed March 24, 1928*⁸⁰

The Republic of Colombia and the Republic of Nicaragua, desiring to bring to an end the territorial dispute pending between them and to strengthen the bonds of traditional friendship which unites them, have decided to celebrate the present treaty for this purpose, and have named their respective plenipotentiaries, i. e.:

By His Excellency the President of the Republic of Colombia, Doctor Manuel Esguerra, Envoy Extraordinary and Minister Plenipotentiary in Nicaragua, and

By His Excellency the President of the Republic of Nicaragua, Doctor José Barcenas Meneses, Subsecretary for Foreign Relations, who, after exchanging their full powers which they found in due form, have agreed to the following provisions:

ARTICLE I

The Republic of Colombia recognizes the sovereignty and full dominion of the Republic of Nicaragua over the Mosquito Coast, extending from Cape Gracias a Dios to the River San Juan, and over the islands of Mangle Grande and Mangle Chico (Great Corn Island and Little Corn Island) in the Atlantic Ocean; and the Republic of Nicaragua recognizes the sovereignty and full dominion of the Republic of Colombia over the Islands San Andres, Providencia, Santa Catalina and all the other islands, islets and keys which form part of said San Andres Archipelago.

The Keys Roncador, Quitasueño and Serrana, the dominion over which is in dispute between Colombia and the United States of America, are not considered to be included in this treaty.

ARTICLE II

The present treaty, in order to become valid, shall be submitted to the congresses of both states, and after approval by these the exchange of ratifications shall take place in Managua or Bogotá within the shortest possible time.

In witness whereof, we, the respective plenipotentiaries, have signed and affixed our seals.

Done in duplicate in Managua the 24th of March, 1928.

[SEAL]

MANUEL ESGUERRA

[SEAL]

J. BARCENAS MENESES

⁸⁰ Ratifications exchanged at Managua, May 5, 1930.

717.2114/70: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, September 14, 1928—9 a. m.

[Received 1:42 p. m.]

342. Legation's despatch 634, March 27th. The Liberals have learned of the signature of the treaty with Colombia and are beginning to attack the administration for its action. The President, therefore, desires to have a public statement about the treaty made now. He would be very glad if the Department would inform the press in Washington that this boundary dispute has been settled through the good offices of the United States and as a result of suggestions made by the Department to the Nicaraguan Government. It would seem only fair to comply with his request as such action will save him, to some extent, from the bitter political attacks to which he will be subjected to [*sic*] for acceding to the Department's suggestion that Colombia's proposal be accepted. Furthermore, it is probable that the treaty will never be ratified by Nicaragua if it is permitted to become a party issue now.

The Legation has discussed this matter informally with Moncada who has promised to use his influence to moderate the criticism of the Liberal press.

EBERHARDT

717.2114/70: Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, September 15, 1928—1 p. m.

180. Your 342, September 14, 9 a. m. Has text of treaty been published in Managua? If so the issuance of a statement by the Department would be greatly facilitated. It will be difficult for the Department to make a statement on this subject to the press without giving the general terms of the treaty.

KELLOGG

717.2114/70: Telegram

The Secretary of State to the Minister in Colombia (Piles)

WASHINGTON, September 15, 1928—1 p. m.

55. Has text of treaty between Colombia and Nicaragua of March 24 last been made public in Colombia?

KELLOGG

717.2114/71 : Telegram

The Minister in Colombia (Piles) to the Secretary of State

BOGOTÁ, September 16, 1928—4 p. m.

[Received September 17 (?)—10:20 a. m.]

94. Department's 55, September 15, 1 p. m. Text of treaty has not yet been made public but the President has publicly stated the general provisions of the treaty in his recent annual message to Congress. To date there has been no press comment.

PILES

717.2114/73 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, September 19, 1928—2 p. m.

[Received 8:54 p. m.]

347. Department's September 15, 1 p. m. President Diaz will publish the Colombian treaty on September 22 and he would very much appreciate it if the Department could at the same time make a public announcement regarding the negotiations which led up to its signature. Please inform me what action will be taken.

EBERHARDT

717.2114/74 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, September 20, 1928—11 a. m.

[Received 3:25 p. m.]

349. My telegram of September 19, 2 p. m. Since the newspapers here are stating that the United States desired an adjustment of the San Andres question because we wished to acquire the island[s] from Colombia and it is even being intimated that a portion of the purchase price will be paid secretly to Conservative officials here, I recommend that I be authorized not only to furnish the press with a copy of the Department's statement about the negotiations but also to state orally at the same time that the United States has no intention of acquiring the islands for itself.

EBERHARDT

717.2114/74 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, September 21, 1928—6 p. m.

187. Your 347, September 19, 2 p. m. At the press conference this afternoon the Secretary said:

"The Department of State was consulted by both parties to the treaty and expressed the opinion to both that the proposed treaty appeared

to offer a very satisfactory and equitable solution of this controversy and the Department therefore hoped that the treaty would receive the approval of the respective Governments."

Copies of the treaty and the notes exchanged with the Colombian Minister on April 10 were given to the correspondents following the conference. You may give out the same statement in Managua if you desire to do so, and you are authorized to say orally in addition that the United States has no intention of acquiring the islands for itself.

KELLOGG

Dominican Republic and Haiti ⁸¹

738.3915/328 : Telegram

The Minister in the Dominican Republic (Young) to the Secretary of State

[Paraphrase]

SANTO DOMINGO, *January 14, 1928—noon.*

[Received 7:30 p. m.]

8. Informal conversations looking to the settlement of the boundary question have been instituted here. It now seems likely that an exchange of notes will be effected soon agreeing to settle the question on the basis of the *status quo* line, with minor adjustments involving the mutual cession of territory to be worked out after the exchange of notes. The subsequent steps will involve agreement as to territory to be ceded, the amendment of article 3 of the Constitution of the Dominican Republic, and the formal ratification of the final agreement. Both sides are optimistic.

YOUNG

738.3915/335

The Minister in the Dominican Republic (Young) to the Secretary of State

No. 790

SANTO DOMINGO, *February 20, 1928.*

[Received February 28.]

SIR: Adverting to the Legation's telegram No. 15 of February 15, 1928,⁸² I have the honor to forward herewith translations of the notes exchanged by Minister of Foreign Affairs Sanchez and the Haitian Minister expressing the desire of both Governments to undertake a

⁸¹ Continued from *Foreign Relations*. 1927, vol. I, pp. 345-356.

⁸² Not printed; it informed the Department that an exchange of notes had been effected.

settlement of the boundary question. The notes are dated January 20 and 21, respectively, but they were in fact exchanged on February 13th.

I have [etc.]

EVAN E. YOUNG

[Enclosure 1—Translation]

The Dominican Minister for Foreign Affairs (Sanchez) to the Haitian Minister in the Dominican Republic (Dejean)

[SANTO DOMINGO,] *January 20, 1928.*

MR. MINISTER: The Government of the Dominican Republic, convinced of the necessity, under which the Haitian people and the Dominican people are, of harmonizing their conflicting interests and of comprehending how a common destiny holds them linked in the same future of progress and of improvement, has, obedient to the feeling of friendship and of sincere sympathy which presides over the relations of our two Governments, deemed it opportune to invite Your Excellency's Government to recognize, as my Government recognizes, the expedience of reaching a definitive accord, frank and open, which shall put a happy end to the difficulties which, in connection with the pending frontier question, have frequently been present in the relations of these peoples with evident diminution of their tranquility and welfare.

In making this declaration, the Dominican Government entertains the hope that neither of the parties will spare its efforts to arrive at a final understanding which will permit definitively resolving the pending frontier question between both countries, in order that thus, with old motives of suspicion and distrust removed from their relations, they may unite with firmness their necessities and their aspirations on the road of civilization.

The Dominican Government is certain that no other moment will be more propitious than is this for accomplishing its purpose of *rapprochement* between the two States, now that the evidences of cordiality and sympathy which both peoples have just offered on the occasion of the visits of their respective Chiefs of State, demonstrate with certainty that the differences which separated them in the past were the consequence of the little acquaintance which the two nations had of each other.

This disposition, Mr. Minister, is indicative of the sincere desire, in which my Government persists, of furnishing a solution of the frontier difference and of arriving, in accordance with the provisions of our Public Law, contained in Article 3 of the Constitution of the State, at a conclusion of the difficulties which, in connection with that conflict, have separated our two peoples. The Dominican Govern-

ment through me declares to the Haitian Government that it will make every effort it can to facilitate the understanding which it mentions, for the felicity of these peoples called, for many reasons, to live a similar future and to face a similar destiny.

I approve the opportunity [etc.] RAFAEL AUGUSTO SANCHEZ

[Enclosure 2—Translation]

The Haitian Minister in the Dominican Republic (Dejean) to the Dominican Minister for Foreign Affairs (Sanchez)

[SANTO DOMINGO,] *January 21, 1928.*

MR. SECRETARY OF STATE: I have transmitted to my Government the important communication which Your Excellency addressed to me [on the 20th of January instant], relative to the question of the frontiers, and I have received instructions to transmit to you the following:

The Government of Haiti, equally convinced of the necessity, more imperious than ever, of consolidating, to perpetuate them through time, the relations of friendship and of good neighborhood which exist between the two countries, is happy to affirm again its conviction, in conformity with that of the Dominican Government, that it is expedient to put an end so soon as possible to the existing difficulties on the subject of the frontiers.

It believes that the present time is particularly favorable to the realization of this accord, in view of the excellent disposition which animates the two Governments and which has just been so brilliantly manifested by the visits of the two Chiefs of State, a disposition which harmonizes completely with the sentiments of mutual sympathy so spontaneously expressed by the two peoples in the course of these visits.

The Haitian Government in consequence declares itself ready to conclude, by direct negotiations with the Dominican Government and without recourse to arbitration, a treaty which definitely assures the drawing of the frontier on the basis of the possessions which the two States at present occupy and by means of reciprocal sacrifices in conformity with equity and with their common interest.

The Haitian Government has the firm hope that the Dominican Government will spare no effort with a view to obtaining this frank, open solution, more in conformity with the permanent interest of the two nations.

I am [etc.]

LÉON DEJEAN

738.3915/338

The Minister in the Dominican Republic (Young) to the Secretary of State

No. 811

SANTO DOMINGO, *March 9, 1928.*

[Received March 20.]

SIR: Confirming the Legation's telegram No. 19 of March 8, 1928,⁸³ I have the honor to report that an informal agreement has been reached between the Haitian Minister and the special representative of the Dominican Government, Mr. Troncoso de la Concha, as to the line which should serve as the boundaries between the following points:—In the North, from the outlet of the river Massacre to Banica, and in the South, from the outlet of the river Pedernales to Jimani.

NORTHERN SECTOR

The line agreed upon starts from the outlet of the Massacre river and follows the 1912 line (American line) to the junction point of the Massacre and Capotille rivers, near Acul Parisien, thence along the Capotille river to Lamine, thence in a southerly direction to Bois Pins, thence from Bois Pins to La Miel—La Guardia Vieja—Banica.

SOUTHERN SECTOR

From the outlet of the Pedernales river to Cabeza del Agua, thence to Boisdon—Bois Tombe—La Guasuma—Minguet—Jimani.

The remaining section of the line (Jimani to Banica) will probably present no serious difficulties. In the somewhat lengthy conferences which I have had with Minister of Foreign Affairs Sanchez and with the Haitian Minister, both were very optimistic as to the possibility of reaching a final and complete agreement.

While the conversations between the Haitian Minister and Mr. Troncoso de la Concha are from a technical standpoint to be regarded as informal, both parties have of course frequently consulted their respective Governments, and the agreement reported above has the approval of the Chief Executives of the two countries.

The Legation is in close touch with the matter, and in a quiet and discreet manner is doing everything possible and appropriate to assist in the effecting of a final settlement of this long-standing and troublesome question. The Department will be promptly apprised, by cable and despatch, of all further developments.

In the Legation's telegram No. 18 of February 25, 1928⁸³ through an inadvertence reference was made to Lake Enriqueillo instead of Lake Saumatre.

I have [etc.]

EVAN E. YOUNG

⁸³ Not printed.

738.3915/345

The Minister in the Dominican Republic (Young) to the Secretary of State

No. 908

SANTO DOMINGO, *May 26, 1928.*

[Received June 5.]

SIR: Supplementing previous reports in regard to the informal negotiations now in progress concerning the Haitian-Dominican boundary question, I have the honor to submit the following brief report respecting the present status of the negotiations.

Beginning at the North, an informal agreement has been reached with respect to the line from the mouth of the Dajabón river down to Toussaint, a small town about fifteen miles northeast of Lake del Fondo. Under the agreement the Dominican Government will receive from Haiti sufficient territory so that the road which now connects Banica and Restauración will lie entirely within Dominican territory.

As compensation for the territory referred to above, the Dominican Government has agreed to give Haiti all of Lake del Fondo, through which the *status quo* line now runs, and sufficient territory between Tierra Nueva and the edge of the lake so that the Haitians may travel around the lake, on the east and northern sides, without having to cross over into Dominican territory.

An agreement in principle has been reached with respect to the major portion of the line between Jimani and the mouth of the Pedernales river. One troublesome question, however, remains to be adjusted. A Haitian road leading north from the port of Anses-à-Pitre crosses the Pedernales river some eleven times near Banane. The Haitian Government is asking for the cession to it of a small strip of land, about four kilometers in length and one kilometer in width, at this point in order that this road may lie entirely within Haitian territory. The Dominican Government is reluctant to accede to this request and desires that the river shall serve as the boundary. As a compromise, the Dominican Government has informally suggested that that portion of the road which would traverse Dominican territory be internationalized. This suggestion appears to be unacceptable to the Haitian Minister.

Minister of Foreign Affairs Sanchez, with whom I informally conferred at length yesterday, informs me that he is entirely willing personally to accede to the Haitian request for the cession of the small strip of territory involved. He is arranging for a reconsideration of the matter by the Dominican commission and is hopeful that the matter can be adjusted. With the settlement of this remaining point an informal agreement will again have been reached with regard to the entire boundary.

The present session of Congress terminates tomorrow, but it is the intention of President Vasquez to convene the Congress in special session, so soon as an agreement shall have been reached, for the purpose of enacting the necessary legislation preparatory to the convoking of a constituent assembly for the purpose of amending Article 3 of the Constitution.

The Department will be kept promptly and fully informed of all developments.

I have [etc.]

EVAN E. YOUNG

738.3915/349 : Telegram

The Chargé in the Dominican Republic (Frost) to the Secretary of State

[Paraphrase]

SANTO DOMINGO, *July 30, 1928—5 p. m.*

[Received 8:55 p. m.]

45. Informal agreement on the Haitian boundary question was signed today.

FROST

738.3915/349 : Telegram

The Secretary of State to the Chargé in the Dominican Republic (Frost)

WASHINGTON, *July 31, 1928—6 p. m.*

16. Your 45, July 30, 5 p. m. When the agreement is made public please express to the President and the Minister for Foreign Affairs personally my hearty congratulations on this peaceful settlement of the long-standing dispute, an act which redounds greatly to the credit of both countries and sets a splendid example for others to follow.⁸⁵

KELLOGG

738.3915/372

The Minister in the Dominican Republic (Young) to the Secretary of State

No. 1091

SANTO DOMINGO, *November 13, 1928.*

[Received November 24.]

SIR: Supplementing the Legation's despatch No. 1090, of November 10, 1928,⁸⁶ I have the honor to forward for the Department's

⁸⁵An identical message to be communicated to the respective Haitian officials was sent to the Legation in Haiti as telegram No. 41 of the same date (not printed).

⁸⁶Not printed.

confidential information a translation of the projected Dominican-Haitian boundary treaty.⁸⁷ The text of the treaty has been informally agreed upon, but it has not yet been made public.

I have [etc.]

EVAN E. YOUNG

Guatemala and Honduras⁸⁸

714.1515/555

The Guatemalan Legation to the Department of State

MEMORANDUM

With a view to reaching an agreement relative to the existing boundary dispute between the two Republics, the Government of Guatemala, early in the year 1927, invited the Government of Honduras to discuss with it an amicable settlement of this question.

The Government of Honduras apparently accepted the invitation to a friendly discussion of the matter, and it was understood as a basis for a satisfactory settlement, that both Governments should agree to refrain from any kind of activity in the territory claimed by both.

However, during the last few months of 1927, the Government of Honduras, contrary to its declarations of friendship and to its announced intention of respecting the *status quo* in the disputed territory, permitted its military authorities to make repeated incursions into Guatemalan territory, interfering with the industry of the inhabitants and spreading disorder and alarm throughout the region.

At this time there is under construction a railway line between two places known respectively as Cacao and Chachagualillo, in Guatemalan territory, on the right bank of the Motagua River, which the Government of Guatemala considers contrary to the declarations of friendship of the high authorities of Honduras.

The Government of Guatemala, desirous of maintaining harmonious relations with the neighboring Republic of Honduras and of continuing the policy of conciliation and of prudence which it has always employed in its relations with the latter and with other Central American countries, has to date contented itself with reiterating protests against such predatory acts; but succeeded thereby only in securing a temporary suspension of the armed invasions, which have promptly been renewed against its territory without consideration of the rights of Guatemala.

The Government of Guatemala has already demanded that the Government of Honduras suspend these invasions and stop the con-

⁸⁷ Not printed. For text of the treaty as signed at Santo Domingo, Jan. 21, 1929, see League of Nations Treaty Series, vol. cv, p. 193. Ratifications were exchanged at Santo Domingo, Apr. 29, 1929.

⁸⁸ For previous correspondence, see *Foreign Relations*, 1923, vol. 1, pp. 354 ff.

struction of the above mentioned railway; but if, as the previous conduct of the latter Government leads it to fear, these demands are not acceded to, the Government of Guatemala will be under the obligation of making its rights respected by such means as are necessary, in order to preserve the sacred interests of the Nation, and responsibility will rest upon the Government of Honduras for the consequences of its unjustifiable acts.

The Minister of Guatemala in Washington, in accordance with instructions from his Government, has the honor to place the above facts before the Department of State of the United States, for its consideration.

WASHINGTON, *February 10, 1928.*

714.1515/549a : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, *February 11, 1928—7 p. m.*

13. The Guatemalan Minister informs the Department that his Government is again protesting to the Government of Honduras against violations of the *status quo* in the disputed territory, and particularly against the construction of a railway line between Cacao and Chachagualillo.

Please investigate and report, ascertaining especially whether any railway construction is being carried on in the disputed territory.

KELLOGG

714.1515/550 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, *February 13, 1928—11 a. m.*

[Received 4:53 p. m.]

26. Department's telegram number 13, February 11, 7 p. m. President Paz states that the Cuyamel Fruit Company has constructed beyond Cacao and without authority 400 meters of tram line for transportation of fruit to the railway head and that despite the fact that his Government considers this as Honduran territory and not in dispute, on the 11th instant he called Turnbull, senior official of Cuyamel Company in Honduras, to Tegucigalpa by plane and personally gave peremptory orders for the suspension of all construction work in that region. Turnbull returned to the north coast by plane yesterday morning. Repeated to Guatemala.

SUMMERLIN

714.1515/552 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, February 13, 1928—2 p. m.

[Received 8:11 p. m.]

27. My telegram number 26, February 13, 11 a. m. The Minister for Foreign Affairs has just shown me copies of telegrams from Honduran authorities at Omoa and Cortes reporting that a Guatemalan force of 1 chief and 50 men has invaded Honduran territory at Chachagualilla, captured the chief of the small guard there, and are now occupying that outpost. Coello stated that his Government has protested vigorously against this invasion and outrage and has requested immediate restoration of Honduran force at Chachagualilla and withdrawal of Guatemalan force. Repeated to Guatemala.

SUMMERLIN

714.1515/557 : Telegram

The Honduran Acting Minister for Foreign Affairs (Coello) to the Secretary of State

[Translation]

TEGUCIGALPA, February 14, 1928.

[Received 11:30 p. m.]

Guatemalan military forces have unexpectedly invaded Honduran territory and taken prisoner the commander of the Chachahualia post that was established as far back as 1917 and put in its place a Guatemalan guard. In answer to a protest of Honduran Government Guatemala alleges works started by the Cuyamel Fruit Company but the Honduran Government forbade in good time the work that had been started without authority and gave assurances to Guatemala that it would not be resumed. So my Government regards as unwarranted and unnecessary the act of violence of the Government of Guatemala which it has asked immediately to withdraw the Chachahualia forces. As the American Government has been acting as mediator between the two countries in the boundary dispute and as the present attitude of Guatemala may leave room for a serious encroachment on that peace in which your government has taken so noble an interest, I venture to urge the influence and mediation of the Department towards restoring the *status quo ante* between Honduras and Guatemala by vacating the invaded places and withdrawing the forces that menace the border. Honduras would be glad later to accept a well defined neutral line to be surveyed and fixed by the American Government pending the final settlement of the boundary dispute. The Honduran

Government will be very thankful if the American Government will take action that will be decisive to avert graver consequences. I beg Your Excellency to accept my high consideration.

AUGUSTO C. COELLO

714.1515/554 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, February 14, 1928—3 p. m.

[Received February 15—12:50 a. m.]

28. My telegram No. 27, February 13, 2 p. m. The Minister for Foreign Affairs has informed me that he has received a telegram dated yesterday from the Minister for Foreign Affairs of Guatemala stating that orders have been given to release the commander of Chachahualia and to return the arms taken over at that place and adding "that the Government of Guatemala is disposed to order the evacuation of Chachahualia provided the Government of Honduras will reciprocate by agreeing not to reoccupy it and to respect the *status quo* in all the disputed zone until some amicable agreement as to what is the boundary line between the two countries shall have been reached."

I understand that the proposal regarding the non-reoccupation of Chachahualia is not acceptable to Honduras.

The Minister for Foreign Affairs has furnished me with a copy of a telegram which he said has been forwarded to you directly.⁸⁹ Repeated to Guatemala.

SUMMERLIN

714.1515/558 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, February 15, 1928—noon.

[Received 4:10 p. m.]

29. My telegram No. 28, February 14, 3 p. m. President Paz stated to me this morning that after the withdrawal of the Guatemalan forces from Chachahualia he would send Coello, Acting Minister for Foreign Affairs, to investigate the alleged railway construction work reported to have been done by the Cuyamel Company and asked if Major Cruse⁹⁰ might accompany Coello. He added that the Guatemalan Minister here has been invited to accompany him. Repeated to Guatemala.

SUMMERLIN

⁸⁹ *Supra.*

⁹⁰ Maj. Frederick T. Cruse, military attaché.

714.1515/557: Telegram

The Secretary of State to the Honduran Acting Minister for Foreign Affairs (Coello)

WASHINGTON, February 16, 1928.

I have received Your Excellency's telegram of February 14 concerning conditions in the territory which is in dispute between Honduras and Guatemala. Further information which I have received leads me to hope that the difficulties which you describe are now in a way to be satisfactorily adjusted. It is my understanding that the railway construction which gave ground for protests by the Government of Guatemala has been abandoned and that the Honduran official who is said to have been arrested at Chachahualia has been released.

It is my opinion, and one which I feel sure that Your Excellency shares, that the *status quo* in the disputed territory should be maintained, and that neither of the disputants should alter the existing situation in any way pending a final settlement of the boundary question. This I believe is also the opinion of the Government of Guatemala. The chief difficulty, however, and the cause for such incidents as appear to have occurred during the past few days, would seem to arise from the lack of a definite understanding as to the exact nature of the *status quo* and the extent of the territory in dispute. I have noted Your Excellency's statement that Honduras would be glad to accept a well defined neutral line pending the final settlement of the boundary dispute. You may be sure that the Department of State will be glad to lend its good offices in any way which may be acceptable to both parties to the dispute in an effort to bring about a satisfactory arrangement.

FRANK B. KELLOGG

714.1515/562a: Telegram

*The Secretary of State to the Minister in Honduras (Summerlin)*⁹¹

WASHINGTON, February 21, 1928—8 p. m.

15. The Honduran Legation has requested the Department's opinion of an arrangement which it is stated the Government of Honduras contemplates proposing to Guatemala that

1. An inspection of the disputed territory be made to determine for the time being a better defined neutral line;
2. An agreement to proceed without delay to a final settlement of the boundary dispute, including if possible the definition of the final boundary line;
3. An obligation on the part of both Governments to submit the matter to the United States for arbitration if no agreement reached under 2.

⁹¹ Repeated to the Minister in Guatemala as No. 11.

The Department stated that it would be glad to see any arrangement by which a friendly settlement of the dispute might be reached and although it would be glad to assist in any friendly way towards such a settlement, it had no suggestions to make regarding the proposed Honduran offer.

KELLOGG

714.1515/565 : Telegram

The Honduran Acting Minister for Foreign Affairs (Coello) to the Secretary of State

[Translation]

TEGUCIGALPA [, *undated*].

[Received February 28, 1928—9:15 a. m.]

The Government and people of Honduras have always appreciated with an intense feeling of gratitude the good will and the friendly spirit in which for some years past the Government of the United States has interceded to bring about a satisfactory and pacific settlement of the boundary dispute with Guatemala. Honduras has endeavored to respond to those very lofty and generous purposes with its most deferent attitude. Since 1917 when mediation began my Government never cast off any means whatsoever of achieving a final settlement of the matter and accepted from the very beginning of the mediation arbitration by His Excellency the President of the United States but, unfortunately, without getting at that time a concrete answer from Guatemala about its accepting the arbitration. Guatemala later accepted that arrangement in the course of the Central American Conferences at Washington in 1923, according to the official declaration of Secretary of State Hughes which is recorded in the journal of the Second Plenary Session of 1923 which I deposited in your Department.⁹² Notwithstanding that agreement and the various steps taken by Honduras to secure the signing of the convention of arbitration, Guatemala constantly refused on some pretext or other to redeem the word it had pledged and finally went so far as to deny its promise. In the meanwhile Guatemala on more than one occasion took advantage of the anomalous situation of our country to take gradual possession of our territory and invaded its integrity now by clandestine works in the zone of the *status quo* that had been agreed to and then by granting concessions like that which was given to the United Fruit Company on November 7, 1924, to foreign companies in territory that is clearly Honduran, in violation of our sovereignty. The arbitrary instructions of Guatemala over Honduran territory cul-

⁹² See *Conference on Central American Affairs, Washington, December 4, 1922—February 7, 1923* (Washington, Government Printing Office, 1923), p. 56.

minated in the recent attack on the Chachahualia guard house which I had occasion to bring to Your Excellency's knowledge in my previous radiogram of the 14th instant. The Chachahualia guard house stands on territory that is plainly Honduran outside of the *status quo* of which the American Government had official knowledge through the note of November 15, 1917 from this Department to the Legation of the United States at this capital.⁹³ Notwithstanding the gravity of the offence perpetrated on the territorial sovereignty of Honduras by that last outrage my Government has, in its desire to avoid a conflict fraught with disastrous consequences to the peace of Central America, carried its prudence to an extreme and in that spirit has again suggested to Guatemala the imperative necessity of arriving at the earliest possible final conclusion of the boundary dispute to which end it proposed that the Minister of Foreign Affairs, the Minister of Guatemala to that Republic and a representative of the American government conduct a personal inspection to the end of stipulating a new provisional line which will set up a clearer more definite *status quo* intended to ward off further difficulties, and immediately take up subsequent negotiations for the final settlement of the matter either by direct agreement on a boundary line under the mediation of Your Excellency's enlightened government or by bringing into play the arbitration that had been agreed on and previously accepted by Guatemala. Guatemala appears on new pretexts again indefinitely to defer the question so that the difficulties would stand and at the risk of giving birth to some other conflict with worse consequences. On those antecedents and with an appeal to the good friendship of the Government of the United States I take the liberty of again beseeching Your Excellency's potent mediation to the end that you kindly interpose your good offices and influence so that the dispute may this time be brought to a final end. Expressing in advance my due thanks to Your Excellency for the great benefit bestowed on my country by your timely mediation, it affords me pleasure to renew to you the sentiment of my best and most distinguished esteem.

AUGUSTO C. COELLO

714.1515/565 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

[Paraphrase]

WASHINGTON, February 29, 1928—6 p. m.

14. Department's telegram No. 11, February 21, 8 p. m.⁹⁴ A telegram has just been received by the Department from the Honduran

⁹³ *Foreign Relations*, 1917, p. 782.

⁹⁴ See footnote 91, p. 716.

Foreign Minister⁹⁵ with reference to the Honduran proposal described in Department's telegram under reference. The telegram states that Guatemala appears on new pretexts again indefinitely to defer the question so that the difficulties would stand and at the risk of giving birth to some other conflict with worse consequences. In the telegram the good offices of the United States are requested in order that the dispute may finally be settled.

Please discuss informally and discreetly with the appropriate authorities the present differences between Guatemala and Honduras, and while not offering at this time formal mediation or good offices, try to ascertain why no reply has been made as yet to the Honduran proposal, and what reply the Government of Guatemala intends to make. You may add that it is the sincere desire of the Department that the Government of Guatemala will accept unqualifiedly the proposal for an inspection of the disputed territory and an agreement to proceed without delay to a final settlement of the boundary dispute.

KELLOGG

714.1515/570: Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

[Paraphrase]

WASHINGTON, March 9, 1928—6 p. m.

19. Your telegram No. 16, March 2, 10 a. m.⁹⁶ The Department has been informed by the Honduran Chargé that the Government of Guatemala has not yet replied to the proposal of Honduras referred to in Department's telegram No. 14, February 29, 6 p. m. The Government of Honduras is much concerned, and fears that the delay may result in further acts of aggression by Guatemala in the territory in dispute.

The Department has not yet been informed by the Guatemalan Minister that his Government would accept mediation. Until I have further information regarding the attitude of Guatemala and the willingness of that Government sincerely to seek an immediate settlement of the boundary dispute through negotiation, I cannot reply to the telegram from the Minister for Foreign Affairs of Honduras.

Report present situation by telegraph.

KELLOGG

⁹⁵ *Supra.*

⁹⁶ Not printed.

714.1515/576 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, March 10, 1928—6 p. m.

[Received March 12—11:30 a. m.]

19. Referring to the Department's telegram of March 9, 6 p. m. I have just conferred with the President and the Acting Minister for Foreign Affairs. The President instructed the latter to send the following telegram to the Minister of Guatemala in Washington:

"The instructions of the President have already been sent by mail. Pending receipt of the same, inform the Secretary of State that Guatemala desires mediation and is agreeable to sending Commission to inspect territory and fix provisional line. It is desired that Commission be composed of both countries and representation United States. This Government is disposed to discuss final settlement as soon [as] provisional line is established."

The President told me that Honduras should dismiss all apprehension of further aggressive steps since Guatemala meant only to stop encroachments. He also said that Guatemala will name its representative on the Commission as soon as informed that details concerning its composition have been agreed upon in Washington and that his Government desires a speedy adjustment of the matter.

With despatch 1833, mailed March 7,⁹⁷ I forwarded a copy furnished me by the President of a map he sent to Recinos,⁹⁸ according to which Guatemala will contend for a line following Merendon to Ildefonso, thence to a point east of Motagua.

Repeated to the Legation in Honduras.

GEISSLER

714.1515/588

Memorandum by the Chief of the Division of Latin American Affairs (Morgan) of a Conversation With the Guatemalan Minister (Recinos), March 15, 1928

The Minister told me that he was authorized by his Government to say that Guatemala was very anxious to settle the question of the boundary dispute between Guatemala and Honduras and felt that this could be done only through the assistance of the United States. The Guatemalan Government was prepared to accept the invitation of the Government of Honduras to appoint a Commission to inspect the disputed territory and endeavor to fix a provisional line defining the

⁹⁷ Not printed.

⁹⁸ Adrian Recinos, Guatemalan Minister at Washington.

status quo. This Commission to be presided over by an American, designated by the Secretary of State.

I replied that this was very gratifying to the Department and that I sincerely hoped something could be accomplished towards settling this long-pending dispute. That if the Department could assist in any way it would be very glad to have the opportunity to do so.

I told the Minister that the Secretary was very anxious to answer the telegram which he had received from the Acting Minister for Foreign Affairs of Honduras on February 28 (which was read to the Guatemalan Minister when he called the following day) but that the Secretary had been unable to answer this telegram until he had some definite information as to the attitude of the Guatemalan Government, so that he would know what the two Governments were desirous of having him do towards helping them. That is, he did not want to reply to Dr. Coello by saying what had already been said—that the Department would be glad to do anything which would be acceptable to both Governments. Dr. Recinos said he fully understood that and for that reason he was glad that he was now able to explain the views of his Government.

In discussing the composition of the proposed Commission I asked the Minister whether in his opinion it would not be a good idea to take this matter up in accordance with the Central American Convention of 1923, establishing Commissions of Inquiry.⁹⁹ I pointed out that this Convention was drawn up to deal with just such questions as that which now exists between Honduras and Guatemala. Guatemala had ratified the Convention. The United States had prepared a list of American citizens who could serve on such a Commission. It would, in my opinion, greatly simplify the procedure if Guatemala and Honduras, having agreed to the formation of a Commission, would act in accordance with this Convention, which laid down specific rules of procedure. Furthermore, I felt sure that the Minister agreed with me that as this Convention was most beneficial to the Central American nations it would be an excellent thing to have it invoked in this case and thus maintained and strengthened. If it were ignored, and such an important question as this were settled by a Commission similar in form to that provided by the Convention, and yet without any reference to the Convention, this would serve to some extent to discredit the Convention and make it less useful in future.

The Minister entirely agreed with me on this point and said he thought it a most happy suggestion. He said he would study the Convention again and communicate at once with his Government and find out whether it approved of the suggestion, and let me know. I

⁹⁹ *Foreign Relations*, 1923, vol. I, p. 321; also *Conference on Central American Affairs*, p. 392.

said that we would take no further action or make any further suggestions until we had heard from him again.

In conclusion I emphasized the fact that I was making this purely as a personal suggestion for his consideration and was not expressing the views of the Department of State.

MORGAN

714.1515/580 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, March 15, 1928—4 p. m.

[Received 8:23 p. m.]

40. President Paz has requested me to confirm the willingness of his Government towards sending a Commission of Inspection to the Guatemalan border. He suggested that the Commission might be composed of the Subsecretaries of Foreign Affairs of both countries, an engineer from each one, and a representative of the mediator government (Major Cruse); finally he suggested that the Commission might be increased by adding the Minister of Honduras to Guatemala and the Minister of Guatemala to Honduras. He stated that his idea is that this Mixed Commission should mark the provisional line of the *status quo* while "we proceed to negotiate the final settlement." Repeated to Guatemala.

SUMMERLIN

714.1515/582a : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, March 17, 1928—7 p. m.

23. Honduras and Guatemala both having agreed to send a commission to inspect the border and to fix a provisional line, this Government feels that the best interests of both Governments would be served by promptly appointing such a commission and undertaking the work of fixing a provisional line as soon as possible to avoid any further incidents while the two Governments actively undertake the permanent adjustment of the boundary difficulty. This Government will appoint a representative to accompany the commissioners appointed by Honduras and Guatemala and will advise his name as soon as possible. Please take up with the Government to which you are accredited the question of appointing promptly its commissioners and ask for its suggestion as to where the commission should first meet to undertake this work. A similar telegram is being sent to Guatemala.¹

KELLOGG

¹ Sent as telegram No. 23.

714.1515/583 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, March 19, 1928—3 p. m.

[Received 9:54 p. m.]

41. Your 23, March 17, 7 p. m. The Foreign Office states that the following Commission has been designated by the Government of Honduras: Augusto C. Coello, Subsecretary of Foreign Affairs; Silverio Lainez, Minister of Honduras in Guatemala; and Engineer Medardo Zuniga; and suggests that the Commission meet first at Cuyamel because of its central location or any other place with equal facilities on the frontier.

Repeated to Guatemala.

SUMMERLIN

714.1515/584 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, March 19, 1928—6 p. m.

[Received 11:55 p. m.]

23. Referring to the Department's telegram of March 17, 7 p. m.² The President is out of town but is expected to return tonight.

The Acting Minister for Foreign Affairs says that Carlos Salazar, delegate to the recent Pan American Conference,³ and two engineers will be appointed Commissioners but that no decision has been reached as to when and where it is desirable for the Commission to meet. I shall talk with the President tomorrow.

Repeated to Tegucigalpa.

GEISSLER

714.1515/594b

The Secretary of State to the Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis)⁴

No. 1

WASHINGTON, March 20, 1928.

SIR: Confirming the Department's telegram No. 6 of March 17, 7 p.m.,⁵ you are hereby informed that you have been appointed as the American member of the Commission to investigate the border between Guatemala and Honduras and to endeavor to fix a provisional frontier line. It is understood that the Governments of Guatemala and Honduras will be represented on this Commission by special representatives, assisted by technical experts.

² See footnote 1, p. 722.

³ See pp. 527 ff.

⁴ Roy T. Davis, American Minister in Costa Rica.

⁵ Not printed.

The Department sincerely hopes that the labors of the Commission may result in putting an end to the friction which has existed of recent years between Guatemala and Honduras growing out of the existence of territory in dispute between these two nations and by misunderstanding as to the rights and obligations of both nations in this disputed territory. It will be the work of the Commission of which you are a member to investigate conditions in the disputed territory and to suggest means for preventing further difficulties and frontier disputes and incidents of the kind which have recently strained the relations between the two Governments.

It will also be the duty of the Commission to endeavor to fix upon a provisional line which shall be considered as the boundary between Guatemala and Honduras pending a final settlement of the boundary problem and agreement upon a permanent frontier. You will understand that the Commission is not empowered to definitely determine either a provisional or a permanent frontier, but it is hoped that the Commission can agree upon a provisional line which will be acceptable to both Governments. If you should find it impossible to bring your colleagues on the Commission into agreement on any one line you should devote your efforts to ascertaining the maximum concessions which each will make to the other, in order that a disputed region of minimum extent may be agreed upon in which both parties will agree to maintain the *status quo*. The rights and obligations of both parties within this disputed region should, if possible, be definitely determined and agreed upon. It is also hoped that the Commission will be able to make some constructive suggestions looking toward a definite settlement of the boundary question and the establishment of a permanent frontier.

The Department transmits herewith for your confidential information copies of three memoranda dated December 5, 1925, July 6, 1927, and August 19, 1927, prepared in the Department, which give a succinct history of the boundary dispute and the mediation of the State Department up to the present time.⁶

The Department is also transmitting under separate cover the "Report on the Economic Survey in parts of Guatemala and Honduras, conducted in May and June, 1919, under the supervision of the American Geographical Society for the Department of State", together with the maps which accompanied this report,⁷ and the "Mediation of the Honduran-Guatemalan Boundary Question Held Under the Good Offices of the Department of State, 1918-1919", in two volumes.⁸ These documents are not to be considered as confidential and are for the use of the entire Commission.

⁶ Not printed.

⁷ See *Foreign Relations*, 1919, vol. I, pp. 107-114.

⁸ Washington, Government Printing Office, 1919 and 1920.

The Department also encloses for your strictly confidential information a biographical sketch of Doctor Salazar,⁹ who, it is understood, will be the Guatemalan representative on the Mixed Commission. All the documents accompanying this instruction should be returned to the Department of State when they have served their present purpose.

I am [etc.]

FRANK B. KELLOGG

714.1515/583 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, March 20, 1928—3 p. m.

25. Your 41, March 19, 3 p. m. The Department will inform you as soon as possible whether Cuyamel is agreeable to the Guatemalan Government as the place of meeting and the date on which it is suggested the first meeting take place.

You may inform the Honduran Government that the Department of State has taken pleasure in naming the Honorable Roy T. Davis, American Minister to Costa Rica, as its representative on the Commission. Mr. Davis will be accompanied by a private secretary, and will meet with the Commission at the time and place agreed upon.

KELLOGG

714.1515/583 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, March 20, 1928—3 p. m.

25. Referring to telegram No. 41, March 19, 3 p. m., from Tegucigalpa. Please inform the Guatemalan Foreign Office that the Government of Honduras has appointed Augusto C. Coello, Sub-Secretary of Foreign Affairs; Silverio Lainez, Minister of Honduras in Guatemala, and Engineer Medardo Zuniga as its representatives on the Commission, and suggests that the Commission first meet at Cuyamel. Please inform the Department as soon as possible whether Cuyamel is acceptable to the Guatemalan Government as a place of meeting, and the date on which it is suggested that the Commission shall first meet.

Also inform the Guatemalan Government that the Department of State has taken pleasure in naming the Honorable Roy T. Davis, American Minister to Costa Rica, as its representative on the Commission. Mr. Davis will be accompanied by a private secretary, and will meet with the Commission at the time and place agreed upon.

KELLOGG

⁹ Not printed.

714.1515/593a : Telegram

*The Secretary of State to the Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis)*WASHINGTON, *March 20, 1928—3 p. m.*

7. The Department has notified the Governments of Guatemala and Honduras that you have been named as the American representative on the Mixed Commission, the time and place of the first meeting will be communicated to you later. You should be prepared to leave on short notice. You are authorized to take with you one private secretary, whom you may select, and you may draw on the Department for the necessary transportation and subsistence expenses for yourself and private secretary, but not at a fixed rate per diem, rendering a separate account. The Department doubts the necessity of your being accompanied by a civil engineer, but if it should be advisable at a later date to send an American engineer to join the Commission the Department will give further consideration to the question.

KELLOGG

714.1515/585 : Telegram

*The Minister in Guatemala (Geissler) to the Secretary of State*GUATEMALA, *March 20, 1928—7 p. m.*

[Received 11:50 p. m.]

24. The Acting Minister for Foreign Affairs tells me that Guatemala has named the following Boundary Commissioners: Carlos Salazar, Fernando Cruz, Colonel Lisandro Sandoval and General Juan B. Padilla, the last two being engineers; and that Mr. Recinos was instructed to suggest as first meeting place Puerto Barrios or Puerto Cortes or any other point with suitable facilities, and that the Commissioners are ready to proceed.

Repeated to Honduras.

GEISSLER

714.1515/586 : Telegram

The Honduran Minister for Foreign Affairs (Davila) to the Secretary of State

[Translation]

TEGUCIGALPA, *March 20, 1928.*

[Received 10:45 p. m.]

The Government of Honduras is highly thankful for the efficacious good offices of the American Government and Your Excellency in particular connection with the settlement of the boundary dispute

pending between Honduras and Guatemala. My Government has already appointed for its part Messrs. Augusto C. Coello, under secretary of Foreign Relations, Silverio Lainez, Minister of Honduras to Guatemala, and Engineer Don Medardo Zuniga to be members of the commission that is to try to fix a provisional line so as to prevent further incidents while progress is made toward a final settlement of the question, the potent mediation of the American Government always being counted on to bring it about. My Government also waits for the appointment of the representative of Your Excellency's Government as offered for the better success of the transaction. The Government's intention is that the commission shall agree upon a provisional line and if unable to agree, that the line shall be indicated by the representative or representatives of the mediator government while negotiations for the final settlement proceed immediately.

I renew [etc.]

F. DAVILA

714.1515/587 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, *March 21, 1928—6 p. m.*

[Received 11:30 p. m.]

25. The Acting Minister for Foreign Affairs says that Cuyamel would be acceptable and that the Guatemalan Commissioners will meet with the others at such time and place as the Department may suggest.

Repeated to Tegucigalpa and Costa Rica.

GEISSLER

714.1515/586 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, *March 21, 1928—7 p. m.*

26. A telegram just received from the Minister for Foreign Affairs of Honduras, thanking the American Government for its good offices in connection with the boundary dispute, states that the Honduran Government's intention is

"that the Commission shall agree upon a provisional line, and if unable to agree, that the line shall be indicated by the representative or representatives of the mediator government while negotiations for the final settlement proceed immediately."

Please inquire whether the Guatemalan Government agrees to the suggestion that in case the Commission is unable to agree upon a provisional line such a line shall be indicated by the American representative on the Commission. Report by telegraph.

KELLOGG

714.1515/591 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, March 22, 1928—1 p. m.

[Received 4:57 p. m.]

26. I have communicated the contents of the Department's March 21, 7 p. m., to President Chacon orally and to the Foreign Office by memorandum.

The President says that the matter will be considered this afternoon at special meeting of the Cabinet and that the decision will be communicated to me immediately.

GEISSLER

714.1515/592 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, March 22, 1928—6 p. m.

[Received March 23—6 p. m.]

28. Referring to Legation's No. 26 of March 22, 1 p. m., following three hours of discussion of the matter by the Cabinet, Mr. Aguilar informed me as follows:

"The Acting Minister for Foreign Affairs has the honor to inform His Excellency the Minister of the United States that the Government of Guatemala accepts the suggestion of the Government of Honduras contained in his courteous memorandum of this date, to the effect that in case the commissioners of Guatemala and of Honduras do not arrive at an agreement regarding the provisional line which is to be designated, the representative of the mediator government shall indicate that line. The Government of Guatemala adds that it accepts the proposal, always provided that provisional line does not compromise the security of the national territory nor the security of the railway line between the capital of Guatemala and Puerto Barrios nor the security of the commerce of Guatemala. Furthermore, it must be understood that this acceptance would not imply abandonment of the rights of Guatemala nor recognition of any right claimed by Honduras in virtue of its advances and incursions into Guatemalan territory."

GEISSLER

714.1515/592 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, March 23, 1928—6 p. m.

27. Please inform the Minister for Foreign Affairs that the following telegram has been received from the American Legation at Guatemala:

[Here follows the text of paragraph two of telegram No. 28, March 22, 6 p. m., from the Minister in Guatemala, printed *supra.*]

KELLOGG

714.1515/592: Telegram

The Secretary of State to the Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis)

WASHINGTON, March 23, 1928—6 p. m.

8. The Minister for Foreign Affairs of Honduras, in a telegram to me dated March 20, after thanking the American Government for its good offices in connection with the boundary dispute, stated that the Honduran Government's intention is

"that the Commission shall agree upon a provisional line, and if unable to agree, that the line shall be indicated by the representative or representatives of the mediator government while negotiations for the final settlement proceed immediately."

The above was communicated to the Guatemalan Government through Mr. Geissler, and the following telegram has now been received from the latter:

[Here follows the text of paragraph two of telegram No. 28, March 22, 6 p. m., from the Minister in Guatemala, printed on page 728.]

In view of the authority now given you by both Governments to indicate a line in case of disagreement Department is taking up with Canal Zone Government matter of detailing an engineer to assist you.

KELLOGG

714.1515/595: Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, March 27, 1928—10 a. m.

[Received March 28—2:17 a. m.]

45. Your telegram No. 27, March 23, 6 p. m. The following reply dated March 26th has been received from the Minister for Foreign Affairs:

"The Government of Honduras takes note of the acceptance of its proposal by the Government of Guatemala; but as the Minister for Foreign Affairs of Guatemala formulates in his message certain qualifications and reservations with respect to the future line which the representative of the mediator government may lay down, my Government abstains from making any declaration in the matter, reserving whatever it may have to say for the discussions which will take place in the Commission for the information of and decision of the representative referred to.

I must however refer to the reservation made by the Guatemalan Foreign Minister in regard to alleged advances and incursions of Honduras into Guatemala, my Government rejecting the accusation

of course as unwarranted, for it has in fact been Honduran territory which for many years Guatemala has invaded little by little."

Repeated to Guatemala.

SUMMERLIN

714.1515/595 : Telegram

The Acting Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, *March 28, 1928—6 p. m.*

28. Please communicate reply of Honduran Government, as transmitted in telegram of March 27, 10 a. m. from Tegucigalpa, to the Guatemalan Government.

OLDS

714.1515/596 : Telegram

The Acting Secretary of State to the Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis)

WASHINGTON, *March 29, 1928—11 a. m.*

11. The Department is informing Governments of Guatemala and Honduras that you plan to arrive at Puerto Cortes on April 4, and is suggesting that the first meeting of the Commission take place at Cuyamel on April 6.

OLDS

714.1515/610 : Telegram

The Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis) to the Secretary of State

CUYAMEL, *April 5, 1928—6 p. m.*

[Received April 9—9:25 a. m.]

1. I arrived Puerto Cortes this morning and was met by Honduran and Guatemalan members Mixed Commission. We will proceed to Cuyamel tomorrow.

Department's undated instruction No. 1¹⁰ and maps transmitted through the American Legation at Guatemala City delivered to me.

While the first two sentences in third paragraph of Department's instruction No. 1 appear conflicting, upon cursory reading I understand in the light of the Department's cablegram No. 8 of March 22 [23], 6 p. m., to San Jose that the Commission is empowered to indicate a provisional line which both Governments agree to accept.

¹⁰ Instruction dated March 20, p. 723.

It is rumored that Guatemala may attempt to avoid accepting provisional line indicated by neutral representative if unsatisfactory to Guatemala by maintaining that mediator's line falls within limitation set forth in memorandum of the Guatemalan Foreign Office as "compromising the security of the national territory."

Does the Department consider essential permanent arbitration by a North American or would arbitration by International Central American Tribunal set up by 1923 treaties be acceptable?

U. S. S. *Denver* departing Saturday; send cables care of American Consul at Puerto Cortes.

DAVIS

714.1515/609: Telegram

The Guatemalan-Honduran Boundary Commission to the Secretary of State

[Translation]

CUYAMEL, April 7, 1928.

[Received April 9.]

We have the honor to inform Your Excellency that the Mixed Boundary Commission of Honduras and Guatemala was installed on this day for the purpose of fixing a provisional line by means of an agreement between the respective Commissions or the decision of the representative of the mediating Government. The Guatemalan and Honduran Commissions take pleasure in expressing once more their sentiments of cordial gratitude to the American Government and to Your Excellency for your cooperation in the matter under discussion, which, we hope, will be decided on grounds of concord and justice. We renew to Your Excellency the assurances of our highest consideration.

CARLOS SALAZAR

President of the Commission of Guatemala

AUGUSTO C. COELLO

President of the Commission of Honduras

714.1515/608: Telegram

The Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis) to the Secretary of State

CUYAMEL, April 8, 1928—8 a. m.

[Received 9:50 p. m.]

2. Mixed Commission arrived at Cuyamel day before yesterday. On account of Good Friday, which is observed with religious fervor

in these countries, both delegations approved my suggestion to postpone until yesterday.

Commission met and organized yesterday morning, electing undersigned president and clerk Cohen secretary general.

Honduran letter of credence empowers Commissioner to fix provisional line. Guatemalan letter of credence empowers Commissioner to agree upon a provisional line and to sign documents which are in accordance with the sovereignty of Guatemala and the instructions given to the Commissioner.

The presidents of both Commissions met with me in informal conference yesterday afternoon. Honduran representative indicated willingness to abstain from pressing [claim?] to territory along the Motagua River from the mouth of Managua River to the mouth of Chachahualia River but insisted upon Motagua River as boundary from this point to the sea.

Guatemalan representative insisted upon establishing line on mountain range south of Motagua River.

Conciliatory spirit lacking.

Informal conferences will continue daily.

DAVIS

714.1515/609 : Telegram

The Secretary of State to the Consul at Puerto Cortes (Fox)

WASHINGTON, April 9, 1928—10 a. m.

1. For Minister Davis. The Department has received a cordial telegram signed by the Chairmen of the Commissions of Guatemala and Honduras expressing appreciation of the Department's cooperation in bringing about the present conference. Please inform your colleagues on the Commission that this telegram has been received and is greatly appreciated.

KELLOGG

714.1515/610 : Telegram

The Secretary of State to the Consul at Puerto Cortes (Fox)

WASHINGTON, April 10, 1928—11 a. m.

2. For Minister Davis: Your 1, April 5, 6 p. m. The Department's telegram No. 8, of March 23, 6 p. m. modifies its mail instruction No. 1, which was dispatched before the receipt of the authorization by the two Governments for you to fix the provisional line in the event the commissioners are unable to agree.

The Department would view with favor the definitive arbitration of the dispute by the International Central American Tribunal.

KELLOGG

714.1515/614 : Telegram

The Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis) to the Secretary of State

CUYAMEL, April 13, 1928—2 p. m.

[Received April 14—1:30 p. m.¹²]

3. After series of conferences with Guatemalan and Honduran Commissions and after visiting part of territory in dispute, it appears improbable that they will establish a pacific [*provisional?*] boundary by mutual accord.

Guatemalan Commission insists that exclusive control of Motagua Valley is essential to its commercial life and to safety of national defense. Honduran Commission apparently willing to raise no question as to *status quo* condition under which Guatemala controls Motagua River and territory south of it from the Managua River to the Chachahualia River but insists upon Motagua River as provisional boundary from the Chachahualia to the sea.

The complicated situation between interests in the disputed territory makes the fixing of a provisional line most difficult. While I am prepared to proceed in fixing provisional line, I am convinced after studying the situation here that the only means of avoiding future conflicts is through permanent arbitration. I am therefore planning to propose formally at a session of the Commission on the 18th that the two Governments through their respective Commissions agree to nominate special plenipotentiaries to meet immediately in Washington or other neutral country to consider proposals for arbitration or mutual agreement.

I should be pleased if the Department could instruct the Legations at Guatemala City and Tegucigalpa to be prepared to make strong representations to the Government to which they are accredited on behalf of the Department in favor of this proposal. I shall advise both Legations as soon as I present the proposal. Should either Government refuse to enter into negotiations that Government would be placed in a difficult position should it protest against the provisional line.

Should both parties agree to open negotiations the establishing of a provisional line prior to these negotiations might disturb the situation and I am of the opinion that the decision of the mediator on present line should be postponed for a reasonable time—say three months for negotiations; and if agreement is reached, an additional three months for legislative action. In the meantime the Mixed Commission now in [session?] should provide simple regulations for maintaining *status quo*.

¹² Telegram in three sections

The Guatemalan Commission has avoided any commitment on permanent arbitration and apparently fears that arbitration will place its railway and commercial interests in jeopardy.

The Honduran Commission has orally informed me that in negotiations for final settlement its Government is willing to consider direct agreement between both countries on basis of mutual concessions or in case of an arbitration convention is willing to include a clause which will reopen the arbitration to take into consideration the vital commercial interests of the two republics.

Should it be necessary for me to fix a provisional boundary, I consider it inadvisable [*advisable?*] to complete and forward final decision from point outside the countries party to controversy. The situation is complicated and delicate and I would prefer to prepare decision in Washington where Department files and maps of 1917 mediation are available. It would not be necessary to bring clerk or engineer.

I shall appreciate Department's instructions on suggestions outlined in this report.

Please reply by cable direct to Cuyamel, Honduras.

DAVIS

714.1515/614: Telegram

The Secretary of State to the Consul at Puerto Cortes (Fox)

WASHINGTON, April 16, 1928—1 p. m.

3. For Minister Davis. The Department understands from your telegrams that the Honduran Government is willing to permit the provisional line to run along the crest of the Merendon Ridge from La Brea to the source of the Chachahualia River, and thence down that river to its junction with the Motagua, and along the Motagua to the sea, and would also, through not pressing its claim to territory on the Guatemalan side of this line, be prepared to accept this as a permanent boundary. Thus it would appear that Honduras is prepared to yield its claim to some five-sixths of the territory actually in dispute between the Motagua River and the Merendon Ridge, whereas the Guatemalan Government is insisting upon full compliance with its original demand that the line extend along the Merendon Ridge from La Brea to a point between Omoa and the mouth of the Motagua river. If the Department's understanding is correct it would seem as though if some compromise is made by Guatemala to meet the compromise already offered by Honduras, it should be possible, if a real desire to settle this controversy exists between these two countries, to bring the two delegations into accord. In any event the Department believes that the Commission should not fail to agree upon a final definition of the territory actually in

dispute in which the *status quo* is to be maintained, and upon regulations for maintaining that *status quo*.

The Department would be reluctant to see the labors of the present Commission result in no more than a mere suggestion that the two governments nominate plenipotentiaries to meet in Washington or other neutral place to "consider proposals for arbitration or mutual agreement." The Department fears that this would simply result in going over the old ground covered by the negotiations of 1918 and subsequent years which led to no satisfactory result. Now that the Commission is in session at Cuyamel there would seem to be no good reason for postponing further discussion. If both countries are prepared to submit the question for final arbitration by the International Central American Tribunal, or any other arbitral board, it would seem that the Commission now in session might well be empowered by the Governments concerned to draw up the necessary agreement, and the Department will gladly instruct the Legations at Guatemala City and Tegucigalpa to make representations to the governments to which they are accredited along these lines. In brief, the Department fears that the adjournment of the present Commission without any definite accomplishment will not pave the way towards more satisfactory negotiations at another time or place, and feels very strongly that since both Honduras and Guatemala have sent representatives to Cuyamel, and the United States has at considerable sacrifice and inconvenience appointed a chairman of this commission and an assistant engineer, the present is the best time to work out and put into effect some constructive agreement.

KELLOGG

714.1515/618 : Telegram

The Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis) to the Secretary of State

CUYAMEL, April 18, 1928—5 p. m.

[Received April 19—11:45 a. m.¹³]

5. Honduran proposal apparently not made clear to the Department. Honduras claims Motagua River as boundary from the Managua River to the sea; however, south of the Motagua from the Managua to the Chachahualia, Guatemala is in possession of a strip of territory approximately ten miles in width. Guatemala insists control south of Motagua in this region is necessary to protect its railroad which parallels Motagua. Honduras, reserving its claims under permanent arbitration, apparently willing to raise no question as to indefinite *status quo* in this region under which Guatemala controls considerable territory claimed by Honduras but insists upon the

¹³ Telegram in two sections.

Motagua River as provisional boundary from the Chachahualia to the sea.

Both Commissions apparently consider that the duty of the present Mixed Commission is to fix a provisional line from Chachahualia to the sea for the purpose of avoiding repetition of the recent difficulties in this section. After a series of conferences they cannot agree upon this provisional line in this section and both have filed signed statements presenting their respective claims and arguments and calling upon the mediator to fix a provisional line under the conditions stipulated in their telegrams accepting the mediation of a representative of the Department.

My suggestions relative to negotiations for permanent arbitration contemplated not a mere recommendation on the part of the Commissions but a joint declaration under special instruction from their respective Governments that plenipotentiaries will be appointed to begin negotiations at a designated place within a designated time. While I would be pleased if present Commission could draw up arbitration convention, the relations between the two Commissions are so strained that negotiations will be difficult. The Guatemalan Commission is dissatisfied with local conditions and feels that advantage is given Honduras by meeting here. I am also under the impression that Dr. Salazar will do everything possible to avoid assuming responsibility in signing an arbitration convention. I shall be pleased if the Department will immediately instruct the Legations at Guatemala City and Tegucigalpa to make representations to the Governments to which they are accredited urging them to empower their respective Commissions to draw up a treaty submitting the controversy to final arbitration. I shall submit this proposal to the conference on April 23rd and would like for representations to be made at Guatemala City and Tegucigalpa concurrently. Please reply by cable direct to Cuyamel.

DAVIS

714.1515/618: Telegram

The Secretary of State to the Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis)

WASHINGTON, April 19, 1928—9 p. m.

Your 5, April 18, 5 p. m. The following cable sent to Guatemala and the same to Honduras except for last paragraph.¹⁴

"Mr. Davis cables from Cuyamel that after series of conferences the two Commissions can not agree upon provisional line and have filed signed statements presenting their respective claims and arguments and calling upon mediator to fix a provisional line under the conditions

¹⁴ Sent, on the same date, to the Minister in Guatemala as No. 37; to the Minister in Honduras as No. 33.

stipulated in their telegrams accepting mediation of representative of Department. Mr. Davis states that complicated situation between conflicting interests in disputed territory makes fixing of provisional line most difficult and that he is convinced after studying the situation that the only means of avoiding future conflicts is through permanent arbitration. He states that should both parties agree to open negotiations, the establishing of a provisional line prior to these negotiations might disturb the situation and that in his opinion the decision of the mediator on the line should be postponed for a reasonable time.

At the conference on Monday, April 23, Mr. Davis will propose to both Commissions that they obtain powers from their respective Governments to draw up a treaty submitting the controversy to final arbitration. As soon as this proposal is made Mr. Davis will cable you whereupon you will please immediately make representations to the Government to which you are accredited urging it to empower its Commission to draw up this treaty. You will point out the very great commercial and economic benefits as well as political advantage to both countries in having this troublesome boundary question definitely settled for all time so that political controversies between the two will be removed and that the region now in dispute may be adequately developed to meet the commercial and economic needs of the countries in question. You may point out that the present occasion would seem to offer a most satisfactory opportunity for settling this question and that you feel confident that the responsible officers of the two Governments would not wish to take a position which would cause the failure of this serious attempt to bring stability in relations between the two countries and deprive the inhabitants of both countries of the benefits of stable conditions both in the frontier territory and in their international relations. Cable results immediately to Department and Legation at Tegucigalpa and to Mr. Davis at Cuyamel.

You will realize that the terms of agreement on part of Guatemala quoted in your cable No. 28 of March 22, 6 p. m. are most unsatisfactory as they open the door of Guatemala to refuse any provisional line which does not give it its maximum claim. The Department may have to consider later instructing you to try to have these terms changed."

When you have made your proposal to the two Commissions please immediately telegraph Guatemala and Tegucigalpa so that they may take the action authorized. Please repeat future cables to Tegucigalpa and Guatemala.

KELLOGG

714.1515/622 : Telegram

The Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis) to the Secretary of State

CUYAMEL, April 20, 1928—1 p. m.

[Received 7:30 p. m.]

6. Doctor Salazar in an informal and confidential conference with me made following suggestion for settling boundary controversy.

1. Guatemala will renounce claims for boundary along the Merendon Range from Cerro Brujo to Mount Elencia and will accept line

of actual possession to Cerro Mirador from which point line is to run to Mount Elencia thence eastward on Merendon Range to Mount Ildefonso thence to the sea through Cuyamel River.

2. Guatemala to pay Honduras indemnity possibility [*sic*] one million dollars.

3. Guatemala to indemnify Cuyamel Fruit Company.

4. Guatemala will agree to recognize legitimate titles granted by Honduras and in case of Guatemala's claims relative to titles will submit same to arbitration.

5. He also intimated that Guatemala might cede small section near La Brea, now in possession of Guatemala.

Engineer Malsbury estimates about 850 square miles in dispute would be acquired by Guatemala. However the most productive portion of this territory has been in the possession of Guatemala for many years, including the village of Quebradas.

See "Map of the Honduran-Guatemalan Frontier, scale one in 200,000, by Medar Dozunfen, dated June 1922," latest report War Department.

I have inquired discreetly of the Honduran Commission if they would be interested in a settlement of this nature without informing them of Dr. Salazar's suggestion and they refuse to consider the matter.

DAVIS

714.1515/627 : Telegram

The Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis) to the Secretary of State

CUYAMEL, April 23, 1928—11 a. m.

[Received 11:30 p. m.]

8. Referring to the last paragraph of the Department's cablegram to Minister Geissler dated April 19, 9 p. m.,¹⁵ relative to qualified acceptance of mediation by Guatemala.

Dr. Coello, in presenting Honduran case, proposed middle of Motagua River as provisional boundary between Chachahualia and the sea. Dr. Salazar prepared reply to the Honduran case which contained the objection relative to Honduran proposal.

"Never at any time has Honduras pretended to possess the Motagua River: it had concreted its desires for territorial expansion to the right bank of the river"—"I will not discuss it because there are things which do not admit of their being considered when, as in this case, they are prejudicial to the dignity and honor of the Republic. [In] Guatemala accepting the friendly mediation of the Government of the United States of America it precisely made the reserve that the provisional frontier should not compromise the integrity of the

¹⁵ See footnote 14, p. 736.

territory, the liberty of commerce and the security of the railroad to the Atlantic; and these three conditions would not be complied with in case of the insinuation of the Honduran commission being accepted because it is evident that the Motagua River never has been in dispute."

When I remarked that the inclusion of this statement would appear to deny the mediator the right to consider the Honduran proposal, Salazar withdrew the statement from his reply.

However the general tone of the Guatemalan representations indicates they will use conditional acceptance of mediation as a basis for refusing to accept a provisional line which is not in accord with Guatemalan aspirations.

Repeated to Guatemala City.

DAVIS

714.1515/631 : Telegram

The Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis) to the Secretary of State

CUYAMEL, April 23, 1928—7 p. m.

[Received April 24—7:15 p. m.]

9. Dr. Salazar has been ill for several days. His physician has informed me that he considers climatic conditions here and lack of medical facilities dangerous for his patient.

In view of the fact that investigation here has been completed and taking into consideration state of Dr. Salazar's health which causes me great concern, the Mixed Commission voted to recess subject to my call at a place and date to be indicated by me in case further meetings are necessary. Should it be necessary for me to establish a provisional line, my decision is to be communicated when completed to the two Governments.

Under the circumstances I consider the recess of the conference was necessary. I could not insist upon Dr. Salazar remaining here and to have adjourned to Guatemala City would have promoted difficulties.

I presented the proposal that the Mixed Commission negotiate an arbitration convention and both Commissions agreed to consult with their respective Governments and transmit their replies to me.

Above repeated to Guatemala City and Tegucigalpa.

I most urgently request that I be permitted to return to my post via Washington so that I may report personally relative to the situation and consult the Department archives. I believe the problem is sufficiently delicate and complicated to warrant this request.

DAVIS

714.1515/628 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, April 24, 1928—noon.

[Received 4:55 p. m.]

52. Your telegram No. 33, April 19, 9 p. m.¹⁶ The Minister for Foreign Affairs has just informed me that instructions were telegraphed this morning to Coello to accept the proposal of Mr. Davis.

Repeated to Mr. Davis and Guatemala.

SUMMERLIN

714.1515/630 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, April 24, 1928—3 p. m.

[Received 11:55 p. m.]

51. This morning I received a telegram from Mr. Davis dated April 23, 5 p. m., saying that he had yesterday submitted to the Commission the proposal outlined in the Department's telegram of April 19, 9 p. m.

A telegram received by the Foreign Office from Commissioner Salazar states that yesterday afternoon the Commission recessed at the suggestion of the mediator and that therefore the Guatemalan Commissioners are returning here April 25.

President Chacon said to me that under the circumstances he feels the Government should do nothing until the Guatemalan Commissioners have arrived and reported. He added that, however, he believes that it is desirable for both countries that the pending negotiations continue with a view to an early settlement and that he has the impression without knowing why that Mr. Davis will trace a provisional line which will be just and therefore acceptable to Guatemala.

The Minister for Foreign Affairs gave me the distinct impression today that he is disposed to negotiate very extensively before entering into a final treaty of arbitration.

Repeated to Mr. Davis and Tegucigalpa.

GEISSLER

714.1515/631 : Telegram

The Secretary of State to the Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis)

WASHINGTON, April 25, 1928—10 p. m.

6. Your 9, April 23, 7 p. m.

1. The Department desires you not to commit yourself formally to drawing a provisional line, since the Department feels that, on

¹⁶ See footnote 14, p. 736.

account of the Guatemalan reservations, your powers are not sufficiently clearly defined. It may be necessary to take up this matter further with the Guatemalan Government. You should not, however, give any intimation that you will not draw a provisional line, but should endeavor to leave this question in abeyance until you have had an opportunity to consult with the Department.

2. You are authorized to return to your post via Washington as soon as you desire, but in view of the approaching inauguration in Costa Rica the Department wishes you to consider the advisability of returning to your post to attend the inauguration, proceeding to Washington immediately thereafter for consultation. If you find it impossible to be in San Jose for the inauguration the Department will endeavor to appoint somebody else as special representative for that occasion.

3. Report what transportation is available for Malsbury and your secretary.

KELLOGG

714.1515/661: Telegram

The Representative of the United States on the Guatemalan-Honduran Boundary Commission (Davis) to the Secretary of State

SAN JOSÉ, May 11, 1928—4 p. m.

[Received 9:48 p. m.]

31. I have just received the following communication from the Honduran Minister for Foreign Affairs:

"I have the honor to inform Your Excellency Guatemalans continue activities in Honduran boundary zone violating agreements while fixing line. Honduran Government protested formally to the Guatemalan Government and informs Your Excellency as mediating representative in order that you may act in exercising your high and authorized mission. Government of Honduras confident you will take steps to avoid constant aggressions while deciding question. Expressing thanks, I renew to Your Excellency my highest appreciation. (Signed) F. Davila."

I have sent the following telegram to the American Legation, Tegucigalpa:

"I shall be pleased if you should advise the Minister for Foreign Affairs that I have received his communication protesting against reported activities of Guatemalans in the disputed territory.

I consider it advisable to refer this communication to the Department since I doubt the advisability of entering into direct communication with the interested Governments."

I respectfully suggest for consideration that the Department communicate with both Governments, calling attention to the importance of avoiding disturbing incidents while the matter is under considera-

tion and urging their cooperation in discouraging new activities in the disputed territory.

I am planning to leave San Jose tomorrow morning en route to the United States, sailing on the steamship *Ulua*, arriving New York, May [20th?]. . . .

DAVIS

714.1515/662b : Telegram

*The Secretary of State to the Minister in Honduras (Summerlin)*¹⁷

WASHINGTON, May 14, 1928—7 p. m.

38. The Department is deeply concerned by press reports which emphasize strained relations between Guatemala and Honduras and the possibility of further serious incidents growing out of the boundary dispute. The Department has also noted with some concern the telegram addressed by Minister for Foreign Affairs Davila to Mr. Davis on May 11.¹⁸

Please inform President Paz that Mr. Davis is now en route to Washington to report on the result of his mission, and say to the President that the Department feels sure that the Honduran Government appreciates the importance of avoiding disturbing incidents and discouraging new activities in the disputed territory, and preventing any hostile demonstrations against the neighboring government while the determination of what further steps it may be possible to take looking to a settlement of the boundary dispute is under consideration.

The Minister at Guatemala is being instructed to make similar representations to the Guatemalan Government.

KELLOGG

714.1515/663 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, May 16, 1928—11 a. m.

[Received 4:55 p. m.]

62. Reference your telegram number 38, May 14, 7 p. m. I have received the following memorandum from the Minister for Foreign Affairs:

"President Paz has complete confidence in Mr. Davis and hopes that he will be able to lay down a provisional boundary line between Guatemala and Honduras; and his policy since the incident at Cha-

¹⁷ The same, *mutatis mutandis*, and omitting the second sentence, to the Minister in Guatemala as No. 41.

¹⁸ Quoted in Mr. Davis' telegram No. 31, May 11, 4 p. m., *supra*.

chahualia up to the present has been to give no cause for disturbances or activities in the disputed zone notwithstanding that Guatemalan activities continue which were the occasion for the protest of May 11th of the Minister for Foreign Affairs. No hostile demonstration against Guatemala has taken place in Honduras.”

Although there have been patriotic demonstrations in which irresponsible individuals have uttered anti-Guatemalan cries, there has not been anywhere in the country, according to the information of the Legation, an organized hostile demonstration against Guatemala.

Repeated to Guatemala and Salvador.

SUMMERLIN

714.1515/630 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, May 17, 1928—2 p. m.

43. Your 51, April 24, 3 p. m. stated that President Chacon felt that the Government should do nothing with regard to Mr. Davis' proposal outlined in the Department's telegram to you of April 19, 9 p. m.,¹⁹ and submitted to the Mixed Commission on April 23, until the Guatemalan Commissioners had arrived and reported. As ample time would seem to have elapsed to enable the Guatemalan Government to give careful and thorough consideration to this proposal the Department desires you to inquire of President Chacon what the answer of the Guatemalan Government to Mr. Davis' proposal is. You may say that Mr. Davis arrives in Washington on May 21 to report and consult with the Department, and it is important that the Department should know definitely the attitude of the Guatemalan Government, in order that it may discuss with Mr. Davis what further action it may be possible and desirable to take.

As you were informed in a telegram from Mr. Davis dated April 24²⁰ the Honduran Government has accepted Mr. Davis' proposal.

KELLOGG

714.1515/669 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, May 17, 1928—5 p. m.

[Received 10 p. m.]

63. I made to President Chacon the observations outlined in the Department's May 14, 7 p. m. He replied that there is no reason to apprehend that there will be any serious incident; details are reported in despatch 1930, mailed May 15.²⁰

¹⁹ See footnote 14, p. 736.

²⁰ Not printed.

The Minister for Foreign Affairs has furnished me a copy of a telegram dated today in which in view of a complaint by the Minister for Foreign Affairs of Honduras that five persons are continuing the work of clearing between Cacao and Cinchado, he stated in substance that an investigation shows that there has been no new work undertaken in that region but only the clearing of banana plantations already in bearing.

Repeated to Tegucigalpa.

GEISSLER

714.1515/672 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, May 19, 1928—5 p. m.

[Received 11:55 p. m.]

65. The Minister for Foreign Affairs has told me that on the basis of discussions at yesterday's Cabinet he has drafted a reply to the proposal of Mr. Davis, which draft is to be submitted to the Cabinet this evening for formal approval. He has sent me a copy to facilitate coding it pending formal action by the Cabinet. The document is very lengthy. The position taken [is] in effect that authorization would have to be obtained from the Assembly before a boundary arbitration treaty can be negotiated; then follows a lengthy argument of Guatemala's case. I do not concur in that proposed interpretation of the Constitution. I have just requested by telephone an immediate conference with the Minister for Foreign Affairs and may also talk again with the President. In consequence there may be no definite action before the 21st.

GEISSLER

714.1515/684 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, May 23, 1928—7 p. m.

[Received May 24—1 p. m.]

69. Referring to Legation's telegram of May 22, 4 p. m.²² An important memorandum received this evening by instruction of the President from the Minister of Foreign Affairs omits statements to the effect that the Assembly would first have to grant authorization.

The memorandum, containing about 1200 words, says that Guatemala desires that the frontier be definitely established and that this [was] demonstrated by the attitude of its delegation at Cuyamel; that when "His Excellency, Mr. Davis, proposed an acceptable fron-

²² Not printed.

tier, although with great sacrifices for Guatemala, that frontier was accepted by the Guatemalan Commission and without doubt the boundary question would have been definitely concluded if the Honduran Commission, placing itself upon the same plane as that of Guatemala, had accepted the conciliatory mediation of Mr. Davis;" that inspections made by Mr. Davis and the Commissioners showed that Honduras, properly speaking, does not possess "in the disputed zone" an inch of ground cultivated or held by Honduraneans; that Honduras has not a banana tree nor a permanent settlement apart from camps of the Cuyamel Fruit Company; that the inspections showed that there are 71 banana plantations on the right bank of the Motagua cultivated by Guatemalans or persons subject to the jurisdiction of Guatemala; that the territory never belonged to Honduras and is of no use to Honduras; that Guatemala by placing in jeopardy its vital interests in the region of the Motagua would expose the integrity of its territory, its commerce and its railroads and that its peace might become constantly menaced by a river frontier; that "in the supposed case of an arbitral award fixing the Motagua or another nearby line as the frontier"—"It would encourage resentments which would be inextinguishable."

The memorandum concludes as follows: "Notwithstanding the foregoing the Government of Guatemala will authorize its Boundary Commission to enter into conversations upon a project of a treaty of arbitration which contemplates a frontier protecting the rights and the economic, commercial and political necessities of the country."

The concluding paragraph did not appear in the unofficial draft referred to in Legation's cablegram May 19, 5 p. m.

GEISSLER

714.1515/685 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, *May 23, 1928—8 p. m.*

[Received May 24—2:15 p. m.]

70. The President has remarked to me that he believes that Washington would be a suitable place for the next boundary conference but that San Jose de Costa Rica would also be acceptable.

GEISSLER

714.1515/684 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, *May 25, 1928—11 a. m.*

45. Your 69, May 23, 7:00 P. M. second paragraph. Mr. Davis has reported that he discussed various possible boundary lines with

the Guatemalan and Honduran Commissioners in the hope of finding a basis upon which they might establish a boundary by mutual accord but that he never formally proposed as mediator any of the lines that were discussed.

The Department hopes that this will be made perfectly clear in any statements which the Guatemalan Government may make with regard to the boundary conference.

KELLOGG

714.1515/696a : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, June 4, 1928—4 p. m.

51. Please transmit immediately the following communication textually to the Minister for Foreign Affairs, cabling the Department at once day and hour of delivery. The communication will then be made public by the Department.

An identical communication and similar instruction is being forwarded to the Legation at Tegucigalpa.²³

"Since 1918 the Department of State at the request of the Governments of Guatemala and Honduras has been serving as a friendly mediator in the matter of the adjustment of the boundary between the two countries. Through this friendly and disinterested cooperation useful exchanges of views have taken place. Animated by a sincere desire to be helpful to both parties, so far as lies in my power, and after a careful review of the situation, I now feel that I would be acting in the best interests of both nations by submitting the following proposal, which I earnestly commend to their favorable consideration:

1. That the Governments of Guatemala and Honduras immediately submit the question of the boundary between their territories unreservedly to arbitration by the International Central American Tribunal established by the Convention of February 7, 1923, signed at Washington by the representatives of Guatemala and Honduras²⁴ and duly ratified by those Governments, Article 1 of which provides as follows: 'The Contracting Parties agree to submit to the International Tribunal established by the present Convention all controversies or questions which now exist between them or which may hereafter arise, whatever their nature or origin, in the event that they have failed to reach an understanding through diplomatic channels, or have not accepted some other form of arbitration, or have not agreed to submit said questions or controversies to the decision of another tribunal.'

2. That the said Tribunal be fully empowered to fix a common boundary between Guatemala and Honduras, taking into con-

²³ Sent as telegram No. 44.

²⁴ *Conference on Central American Affairs*, p. 296.

sideration the political, economic and commercial interests of both states and also to determine the amount of any compensation which it may find necessary or desirable for either party to make to the other; the decisions of the Tribunal to be, of course, conclusive and binding upon both parties.

3. That the existing Mixed Commission now in recess be convened at a time and place to be designated by its Chairman for the purpose of drawing up and signing the protocol contemplated in Article VII of the aforesaid Convention.

I am encouraged to make this proposal because I have become firmly convinced of the sincere desire of the governments and peoples of Guatemala and Honduras to eliminate this long-pending dispute and thus consolidate and put on a permanent footing friendly relations between them; and because I am inclined to feel that this method offers a more hopeful opportunity to arrive at a settlement than negotiations through diplomatic channels. In this connection I also venture to recall that at the Central American Conference of 1923 the Governments of Guatemala and Honduras through their duly authorized plenipotentiaries publicly announced their decision to submit this boundary question to arbitration.²⁵

I trust that both Governments may find it possible to welcome the opportunity of adjusting their differences in this manner, at the same time making to the cause of international arbitration an impressive contribution which can not fail to call forth the unanimous approval of civilized nations throughout the world. (Signed) Frank B. Kellogg."

KELLOGG

714.1515/704 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, June 6, 1923—5 p. m.

[Received 9:40 p. m.]

71. Your telegram number 44, June 4, 4 p. m.²⁶ President Paz stated to me this afternoon that he has instructed the Minister for Foreign Affairs to accept your proposal. Repeated to Guatemala.

SUMMERLIN

714.1515/707 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, June 7, 1923—5 p. m.

[Received June 8—12:25 a. m.]

78. A note just received from the Minister for Foreign Affairs says, after reciting the substance of the proposal of Mr. Kellogg,²⁷ that:

"The Government of Guatemala, which is most desirous of arranging definitely its boundary question with Honduras as well as

²⁵ See *Conference on Central American Affairs*, pp. 56, 62.

²⁶ See footnote 23, p. 746.

²⁷ See telegram No. 51, June 4, to the Minister in Guatemala, p. 746.

in order to demonstrate to the friendly Government of the United States appreciation of its valuable and disinterested mediation, accepts with pleasure the suggestion of His Excellency the Secretary of State regarding submission of the matter to the decision of the International Central American Tribunal established by the Convention of February 7, 1923. By virtue thereof it will today convoke the Legislative Assembly that it may meet in extraordinary session for the exclusive purpose of asking of it authorization for the Executive to enter into the treaty of arbitration suggested in the courteous note which I am answering. I request Your Excellency to be pleased to reiterate to His Excellency, Secretary of State Kellogg, the gratitude of the Government of Guatemala for the friendly good offices of the Government of the United States."

Repeated to Tegucigalpa.

GEISSLER

714.1515/711 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, June 11, 1928—noon.

[Received 8:55 p. m.]

81. The Minister for Foreign Affairs has orally indicated that he desires to know the names of the 15 jurists submitted by the United States for the permanent list from which members of the Central American Tribunal are to be chosen. I have a copy of an announcement given by the Department to the press September 26, 1925, giving 15 names headed by James M. Beck.²⁸ Is that list still intact?

Mr. Salazar says that he would also appreciate it if the American Legation in Tegucigalpa would let me know for his unofficial information the names of such persons as have been communicated under the convention to the Honduran Foreign Office by the other signatories including Honduras.

The Minister for Foreign Affairs told me confidentially that Guatemala intends to request Cuba to submit a list of five names under article 3 of the convention.

Repeated to Honduras.

GEISSLER

²⁸ The persons designated were: James M. Beck; Edwin M. Borchard; J. Reuben Clark, Jr.; William C. Dennis; David Jayne Hill; Manley O. Hudson; Charles Cheney Hyde; Nathan L. Miller; John Bassett Moore; Edwin B. Parker; Jackson H. Ralston; Jesse S. Reeves; James Brown Scott; George W. Wickersham; and George Grafton Wilson.

714.1515/714 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, June 12, 1928—11 a. m.

[Received 11:40 p. m.]

73. Your telegram No. 44, June 4, 4 p. m.²⁹ Honduran reply dated June 12 received. After detailed résumé of your note, the text is as follows:

"The Government of Honduras has always appreciated with cordial sentiments of gratitude the friendly efforts toward which the distinguished American Government has dedicated and dedicates to the peaceful and equitable settlement of the boundary question between Honduras and Guatemala: efforts to which Honduras has always responded to loyally and even with ardor, receiving with entire good will the many suggestions which have been made to it with a view to accomplishing this high purpose.

To this end the Government of Honduras participated in the mediation of 1918-1920 and it was not to blame that a satisfactory solution was not reached at that time. In the same spirit Honduras received in 1923 the suggestion of an arbitration agreement with the President of the United States of America as final Arbiter. His Excellency the former Secretary of State Mr. Hughes took occasion to make this a matter of official record at the second plenary session on February 7, 1923, of the Washington Conference on Central American Affairs.³⁰ Later, following the lamentable death of His Excellency, Mr. Warren G. Harding, the President of the United States of America, the Government of Honduras reiterated its obligation for arbitration to the American Legation on August 23, 1923, asking that the Arbitrator might be the new President of the United States, His Excellency Mr. Calvin Coolidge.³¹ The latter having indicated his acceptance, according to a note of September 17, 1923, from the Minister of the United States in Tegucigalpa, Honduras has only waited for a similar action on the part of Guatemala to make formal her obligation to arbitrate.

From that date to the present the distinguished American Government on various occasions both officially and in other ways has expressed its understanding that there exists between Honduras and Guatemala a definite obligation for arbitration. This understanding was especially to be inferred from the declaration made by the Honorable Roy T. Davis, mediator and representative of the American Government at the Cuyamel conference, during the session of April 23rd, 1928. It was also expressed in the communication from the Department of State which Your Excellency was so good as to transmit to me and to which I now have the honor to refer.

In view of these considerations which my Government submits respectfully to the attention of Your Excellency and of your Gov-

²⁹ See footnote 14, p. 746.

³⁰ See *Conference on Central American Affairs*, p. 56.

³¹ See telegram No. 58, Sept. 14, 1923, 4 p. m., to the Minister in Guatemala, *Foreign Relations*, 1923, vol. I, p. 355.

ernment, permit me to point out that in the light of the stipulation in article 1, paragraph 1, of the convention for the establishment of an International Central American Tribunal that the contracting parties agree to submit to the said Tribunal questions for which 'they have not accepted some other form of arbitration,' the Government of Honduras would desire to know first the judgment of the Department of State in regard to the earlier existing obligation with Guatemala; that is to say, if the Department does not consider, as it considered in the past, that there is still existing a solemn promise of arbitration agreed upon between Honduras and that Republic, then I am of the opinion that my Government would be relieved of the obligation which has bound it for more than five years and would be in a position to consider itself free to assume another obligation without failing in its pledged word before the American Government.

While asking Your Excellency to transmit to your Government the respectful statement which I now have the honor to submit to its high and just consideration, I await the reply, in order that I may make due and careful answer to the note of Your Excellency to which I have had the honor to refer."

Repeated to Guatemala and Salvador.

SUMMERLIN

714.1515/714 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, June 15, 1928—noon.

50. Your 73, June 12, 11 A. M. I deeply appreciate the spirit in which the Honduran Government makes inquiry as to the obligations resting upon it to submit the boundary dispute to the President of the United States. However, inasmuch as no final protocol has ever been executed making effective the agreement to submit this dispute to the arbitration of the President, as announced at the Central American Conference in 1923, it is the opinion of the Government of the United States that the obligations implied by that agreement may not be considered as precluding arbitration by the International Central American Tribunal, as provided for by the Treaty of 1923.

Please communicate the foregoing to the Minister of Foreign Affairs and state that the Department hopes that the Government of Honduras may now find it convenient to take the course of action suggested in the Department's telegram of June 4, 4 P. M.³³

KELLOGG

³³ See footnote 23, p. 746.

714.1515/725 : Telegram

*The Minister in Guatemala (Geissler) to the Secretary of State*GUATEMALA, June 18, 1928— $\frac{1}{4}$ p. m.

[Received June 19—12:25 a. m.]

88. Legislative Assembly convened today. President's message which refers only to the boundary matter says in part that "the Executive receives favorably the high-minded suggestion of the Department of State;" that it has not been possible to solve the controversy directly between the parties nor through the friendly mediations of the United States; that at the conferences at Cuyamel presided over by Mr. Davis it was possible [*impossible* ?] to come to a friendly agreement; that the present situation is intolerable and calls for an efficacious remedy; that in advising arbitration the Department of State "incorporated in its proposition the reservations consistently put forth by Guatemala" so that the economic, commercial and political interests of the country "must not be affected by the frontier adopted;" that nevertheless under the Constitution it is for the Assembly "to determine the bases and explain the subject matter of the arbitral proceeding" and that he makes his own the words of the last paragraph of the note of Secretary of State Kellogg, which paragraph he then quotes.

It is generally believed that the Assembly may consider the subject for from two to four weeks.

The Foreign Office expresses confidence that the Assembly will grant authorization without reservation but there is much talk among the deputies of a reservation providing that Guatemala's boundary shall at least go to the crest of the Merendon.

Referring to the last paragraph of the Legation's telegram of June 15, 11 a. m.³⁴ It is no longer probable that such answer as the Department may deem opportune in response to the note of Honduras would complicate the situation in Guatemala. Repeated to Honduras.

GEISSLER

714.1515/738 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, June 25, 1928—5 p. m.

[Received June 26—1:52 a. m.]

78. Your telegram No. 50, June 15, noon. The following reply dated today has been received from the Minister for Foreign Affairs:

"The Government of Honduras has considered with the most profound attention the friendly reply of His Excellency the Secretary of State, fully appreciating the sentiments of cordiality which dictated it and which also motivated the proposals he made for the satisfactory

³⁴ Not printed.

and definite solution of the existing controversy. In full response to these sentiments my Government desires that there shall not exist the slightest misunderstanding with respect to the interpretation of the reply of the Department of State to the question which I ventured to ask in my note of June 12th to the American Legation.³⁵

My Government is of the understanding that in the opinion of His Excellency the Secretary of State there is no existing signed protocol of arbitration between Honduras and Guatemala; but the Department of State does not pronounce [*sic*] itself in regard to the existence of an obligation to sign such a protocol, to be inferred from the declaration made in 1923 by His Excellency ex-Secretary of State Hughes.

In fact at the close of the Washington Conference of 1923 there existed in full vigor the boundary convention between Honduras and Guatemala signed August 1, 1914,³⁶ which became effective on June 12, 1915, the date of exchange of ratifications, article 15 of the convention providing that it should have a duration of 10 years.

Article 9 of the convention stipulated that 'if the Governments should not be able to agree on any one or more of the disputed points, they agree to refer the decision to an arbitrator who shall be the President of the United States of America.' The naming of the Arbitrator was to have been made at the latest within 60 days of the publication in the official journal of the notice conjointly one of the contracting Governments suggested the nomination to the other; and in the event that this requisite should not have been fulfilled within the stipulated time the efficacy and force of the convention was in no sense invalidated, for article 15 declared conclusively that none of the time limits fixed in the convention should be final nor should they give rise to provisos of any kind.

The same article provided that the boundary question should not be settled by any other means.

With such unquestionable antecedents it is evident from every point of view that the obligation contracted by Honduras and Guatemala at Washington during the Conference of 1923 under the auspices of the Department of State was that of proceeding to the execution of the arbitration agreement and subscribed to in the boundary convention of 1914, an obligation which Honduras has been ready to satisfy in the terms agreed upon.

If Guatemala has not responded on more than one occasion to the suggestion of the Government of Honduras for the proper formalization of the arbitration, nevertheless, the Department of State considered always that there was pending an obligation, an opinion expressed on more than one occasion both orally and in writing. This obligation could not be other than that of 1914 ratified in 1923, and it could have been realized at any time by merely giving it form effective for execution, in view of the fact that the procedure and terms of the arbitration were laid down in article 11 of the convention referred to.

In the light of the above considerations, if, as my Government understands, the Department of State is of the opinion that there is lacking only a signed protocol, and given the sentiments of cordiality which it extends to the Central American countries together with its

³⁵ See telegram No. 73, June 12, 11 a. m., from the Minister in Honduras, p. 749.

³⁶ *Foreign Relations*, 1917, p. 786.

proposal that the existing question be settled by means of arbitration, I believe firmly that its efforts directed toward suggesting to both Governments the formalization of the protocol discussed above would meet with a ready acceptance from both, if there exists the desire for a sincere understanding. Thus would be avoided delays and difficulties perhaps unsurmountable which would arise in other procedures recently suggested.

While offering respectfully this suggestion in a spirit of true cordiality and with strong confidence in the high justice and strict judgment of His Excellency the Secretary of State, my Government awaits in any case the later decision of the Department before considering, always with the same breadth of view and with the same disposition for the equitable and friendly settlement of its differences, its definite reply to the proposal of His Excellency the Secretary of State contained in the American Minister's note number 239 of June 5 of the present year."³⁷

Repeated to Guatemala and Salvador.

SUMMERLIN

714.1515/746 : Telegram

*The Minister in Nicaragua (Eberhardt) to the Secretary of State*³⁸

MANAGUA, June 28, 1928—3 p. m.

[Received 5:45 p. m.]

264. The Nicaraguan Government yesterday sent a note to the Government of Honduras informing it of the appointment of Alfonso Ayon, Alfonso Solorzano, Maximo Zepeda and Joaquin Vigil as national judges on the Central American Court and of George Grafton Wilson and Doctor Antonio Uribe of Colombia as non-national judges.

EBERHARDT

714.1515/738 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, July 10, 1928—2 p. m.

58. The Department has given careful and sympathetic consideration to the views expressed in the note from the Honduran Minister for Foreign Affairs dated June 25,³⁹ and appreciates the desire of Honduras fully to comply with its international obligations with respect to the arbitration of its boundary dispute with Guatemala. It is feared, however, that the reply of this Government to the inquiry

³⁷ See footnote 23, p. 746.

³⁸ Repeated by the Department, June 29, 4 p. m., to the Ministers in Guatemala (No. 58) and Honduras (No. 53).

³⁹ See telegram No. 78, June 25, 5 p. m., from the Minister in Honduras, p. 751.

of the Honduran Government as to the present effectiveness of the Arbitration Agreement of 1923, announced at the Conference on Central American Affairs, has not been fully understood.

In the reply of this Government just mentioned the opinion was expressed that the obligations implied by the 1923 Agreement may not be considered as precluding arbitration by the International Central American Tribunal provided for by the Treaty of 1923. This opinion was arrived at after reviewing the events of the past ten years during which, notwithstanding the existence of the Boundary Convention of August 1, 1914, and the Agreement of 1923, and the efforts at mediation during the years 1918 to 1920, no definitive settlement of the dispute had been achieved. It is to be noted in this connection that, although the 1914 Treaty was in effect in 1918 and still in 1923, mediation was resorted to in 1918 and a new agreement was concluded in 1923; thus demonstrating that the existence of other agreements with respect to the boundary has not been in the past and should not now be considered an obstacle to another course of action which promises a solution of the difficulty.

Please convey the foregoing to the Minister for Foreign Affairs and express the earnest hope of this Government that the Government of Honduras may soon signify its agreement to the proposal to submit the boundary dispute to arbitration by the International Central American Tribunal.

You may add informally that this Government has observed with surprise a reference in the note from the Honduran Minister for Foreign Affairs to "delays and difficulties perhaps unsurmountable which would arise in other procedures recently suggested." It is confidently believed that the procedures established under the provisions of the Convention for the Establishment of an International Central American Tribunal are fully adequate to the present problem and offer a means for its speedy and equitable settlement.

KELLOGG

714.1515/763 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, July 17, 1928—6 p. m.

[Received July 18—12:10 a. m.]

95. The Legislative Assembly has passed the bill authorizing the Executive to submit the boundary question to the International Central American Tribunal without discussion and by unanimous vote. Repeated to Honduras.

GEISSLER

714.1515/767 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, July 20, 1928—7 p. m.

65. . . .

Minister Bogran called on me on July 18 [17] and in the course of the conversation it appeared that the proposal contained in my cable of June 4 was misunderstood in Honduras. It appears that the inclusion of the provision by which the Arbitrator would take into consideration the political, economic and commercial interests of both States has been interpreted in Honduras as meaning that the boundary question will be decided purely on political, economic and commercial considerations. I explained to Senor Bogran that this of course is not the intent of my note, nor is it the proper interpretation thereof. I told him that of course both countries may present arguments, proof and evidence of an historical and/or legal nature and that the decision will be made on the basis usual in such international arbitrations with the exception that the Arbitrator will be authorized in addition to take into consideration the political, economic and commercial interests of both nations. The Minister stated that he now understood the matter, which he had not before, and that he would telegraph an explanation to his Government. You will please also make this explanation. Please cable the Department fully regarding this matter, informing it of any other misunderstanding that may exist regarding the arbitration.

According to Bogran there is also a feeling in Honduras regarding the Nicaraguan panel of judges. They feel that this panel having been selected now, when there is a definite controversy to come before the Tribunal, Nicaragua may have appointed politicians rather than jurists and that the national members appointed by Nicaragua might very likely side with Guatemala in order to get Guatemalan support for Nicaragua in the latter's boundary controversy with Honduras. I pointed out to the Minister that it would be possible to select three judges from the Costa Rican-Nicaraguan panels who would not be Nicaraguans or even Central Americans at all. I feel that the suggestion made by me on June 4 offers the best means for a settlement and I trust that you will avail yourself of every opportunity to explain the matter in its true light to the President, members of the Government and Congress and other public men of Honduras. I feel confident that if they correctly understand the proposal that it will meet with their approval and acceptance. Copy sent to Guatemala.

KELLOGG

714.1515/773: Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, July 25, 1928—noon.

[Received 10:45 p. m.]

89. I have received a note from the Minister for Foreign Affairs transcribing without comment a copy of an Executive decree dated July 24 dissolving the Commission headed by Mr. Coello for the Guatemalan boundary dispute on the grievance [*grounds?*] that in view of the new proposals of the United States Government now being considered there is no longer reason for the existence of the Commission under the decree of March 27th by which it was constituted. Refer to Legation's despatch number 578 of March 31st, 1928.⁴⁰

Under Secretary for Foreign Affairs explained orally that his Government will name the necessary plenipotentiaries without delay if it should be decided to accept proposal.

Repeated to Guatemala.

SUMMERLIN

714.1515/774: Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, July 26, 1928—4 p. m.

[Received July 27—1:25 a. m.]

91. President Paz called for me today and, after stating most earnestly that he believed Guatemala was preparing to occupy with armed forces Honduran territory to the east of the Motagua River, insisted that I inquire by telegraph whether the Department would use its good offices in an effort to prevent such action on the part of Guatemala. I have no way of knowing whether there is any foundation in fact for the fears of President Paz but I believe he is entirely sincere.

Repeated to Guatemala.

SUMMERLIN

714.1515/775: Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, July 27, 1928—9 a. m.

[Received 2:23 p. m.]

98. Referring to Mr. Summerlin's July 25, noon. A remark made to me by the Minister for Foreign Affairs indicates that upon learning formally of the action of Honduras in dissolving its Boundary Com-

⁴⁰ Not printed.

mission the Government of Guatemala may take the position that this constitutes a premature termination of the agreement that the mediating Government may propose a provisional line. Repeated to Honduras.

GEISSLER

714.1515/773: Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, July 27, 1928—noon.

67. Your 89, July 25, 12 noon. Paragraph 3 of the Department's proposal to the Governments of Guatemala and Honduras that the boundary dispute be submitted to the International Central American Tribunal contemplated that the existing Mixed Commission now in recess should reconvene for the purpose of drawing up and signing the necessary arbitral protocol.

The Department is therefore at a loss to understand the action of the Government of Honduras in completely dissolving its boundary commission and will appreciate a report from you as to the motives which impelled it to take such action.

KELLOGG

714.1515/769: Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, July 27, 1928—1 p. m.

68. Department's 65, July 20, 7 p. m., last paragraph. The Department has been informed that the Nicaraguan jurists whose names were communicated to the Government of Honduras on June 27 last were appointed in 1923. This fact should dispel the apprehension understood to be entertained by Honduras that the Nicaraguan members may have been selected now with a view to service in connection with the adjustment of the Guatemala-Honduras boundary dispute. Inform Honduran Government.

Please report by telegraph the status of the proposal for the submission of the boundary matter to the International Central American Tribunal.

KELLOGG

714.1515/774: Telegram

The Secretary of State to the Minister in Guatemala (Geissler) ⁴¹

WASHINGTON, July 27, 1928—5 p. m.

62. Please inform the Guatemalan Government of the apprehensions of the President of Honduras as reported in Minister Summer-

⁴¹ Repeated to the Minister in Honduras as No. 69.

lin's telegram of July 26, 4 p. m., and say that although this Government assumes that some misunderstanding must exist and has entire confidence in the purpose of Guatemala to maintain the *status quo*, you are directed to point out the importance of avoiding the appearance of any aggressive action.

KELLOGG

714.1515/787

The Minister in Honduras (Summerlin) to the Secretary of State

No. 666

TEGUCIGALPA, July 30, 1928.

[Received August 9.]

SIR: I have the honor to refer to your telegrams No. 65 of July 20, 1928, No. 68 of July 27 and to previous correspondence, all relative to the Honduran-Guatemalan boundary controversy.

Mr. Bográn has not, I think, represented altogether accurately the opinion in this country of your proposal to submit the dispute to the International Central American Tribunal. Certainly the inclusion of the provision by which the arbitrator would take into consideration the political, economic and commercial interests of both states has not been interpreted by the Government as meaning that the boundary will be decided purely on those considerations, although great objection has been taken by the press to their inclusion at all. There have, however, been certain misunderstandings on the part of the Minister for Foreign Affairs which I believe I have succeeded in clearing up. At first he raised the objection that a panel of thirty judges could not be obtained because Salvador had failed to ratify the convention. I explained, of course, that the convention was fully in effect among the four states which have ratified it and that there would be a panel of twenty-four judges from which to make a selection of three. He then raised the objection that the Costa Rican panel having been nominated in 1923, the terms of the judges have expired or are about to expire. In reply to this objection, I showed him a copy from the files of the Legation of a note of 1925, from Mr. Aguirre, then Minister for Foreign Affairs, from which it appeared that the Costa Rican panel was named in that year, there being thus two years more before the terms of its individuals expire. This same objection might be made to the Nicaraguan panel, which was nominated in 1923, but Dr. Dávila has not raised the question. The misunderstanding in regard to the date of appointment of the Nicaraguan panel was cleared up before the receipt of your telegram No. 68 of July 27, 1 P. M., as the result of the visit to Tegucigalpa last week of Mr. Munro, Secretary of the Legation at Managua, who had informed me of the actual date of the appointment. From these

objections of Dr. Dávila it would appear that he is not entirely familiar with the Treaty of 1923, or is deliberately playing for time.

I have not failed on every proper occasion to explain the situation to the President, to the Minister for Foreign Affairs and to other prominent persons, emphasizing its importance and the great opportunity that is now being offered to Honduras to settle for good and for all, this long standing and vexatious dispute. However, the proposal for arbitration of the question by the International Central American Tribunal is unpopular with all classes and all political parties. Great hopes had been entertained that the matter would be arbitrated by the President of the United States, and when the proposal came to submit it to the Central American Tribunal it was a disappointment. The real reason for the delay of the Government of Honduras in accepting this arbitration, is due, in my opinion, to reluctance to bind the country to a decision, which it does not believe will be a just one. The mistrust of the International Central American Tribunal, or for that matter, any tribunal connected with Central America, is too profound to be uprooted by arguments that the prejudice has no basis in fact. I think even President Paz has doubts whether Honduras would receive justice from the Central American Tribunal. It may be that in time, this feeling can be overcome, and that the country can be brought to see that its legitimate interests will suffer nothing in the hands of the International Central American Tribunal, but the change cannot be effected speedily.

It is unfortunate too, from the viewpoint of conditions in Honduras, that this question should have come to the front during a presidential election year. The politicians naturally seize upon such a fertile subject for propaganda and inflaming appeals to patriotism. The Government will probably be bitterly attacked if the arbitration of the International Central American Tribunal is accepted. This situation tends to make official action timid and added to the fact that the officials themselves feel no enthusiasm for the proposal, offers a reasonable explanation for the fabian tactics of the Foreign Office since the proposal was first received.

Dr. Dávila has taken the stand that, inasmuch as the Foreign Office of Honduras is the central chancellery of the International Central American Tribunal, his Government will not nominate its panel of judges until Guatemala has done so. In any event the Honduran panel cannot become effective until confirmed by the Congress which does not meet until next January.

I have [etc.]

GEORGE T. SUMMERLIN

714.1515/789

The Minister in Honduras (Summerlin) to the Secretary of State

No. 668

TEGUCIGALPA, July 30, 1928.

[Received August 9.]

SIR: I have the honor to refer to your telegram No. 67 of July 27, 1928, instructing me to inform the Department of the motives which prompted the Government of Honduras to dissolve its Boundary Commission, appointed last March.

The following explanation for this action was given me by the Minister for Foreign Affairs, in a memorandum, dated July 25:

"The Minister for Foreign Affairs of the Republic of Honduras declares that the reasons for the emission of Decree No. 211, by which the Boundary Commission is dissolved, were solely the following:

The Boundary Commission, according to the Decree of March 27, 1928, by which it was constituted, was empowered only to make an inspection of the frontier zone and to treat of the establishment of a provisional line, pending the definitive solution of the boundary question between Honduras and Guatemala.

At the session of April 23 of the Cuyamel Conference, the Honorable Mediator proposed that the commissions obtain powers from their respective Governments for the negotiation of a definite treaty of arbitration.

The commissions not having succeeded in attaining any of the ends for which they were created and a new proposal having been made relative to the boundary question pending between the two countries, the Government of Honduras considers the mission of the Boundary Commission to have terminated. However, if in the course of the negotiations a new agreement should be arrived at, the Government will determine the selection of its representatives in accordance with terms of the agreement which might be decided upon.

Therefore the Minister for Foreign Affairs is pleased to make declaration that the decree dissolving the Boundary Commission had no other design than that already indicated, the Government of Honduras being always ready with the greatest good will to continue the negotiations begun under the mediation of the American Government.

Tegucigalpa, July 25, 1928."

The issuance of the decree dissolving the Boundary Commission appears to me to have been quite unnecessary and I have stated this opinion to the Minister for Foreign Affairs.

I have [etc.]

GEORGE T. SUMMERLIN

714.1515/778: Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, July 31, 1928—2 p. m.

[Received August 1—4: 55 a. m.]

94. Your telegram No. 58, of July 10, 2 p. m. My telegram No. 78, June 25, 5 p. m. I have received today a note dated July 27th from

the Minister for Foreign Affairs which after preliminary references to previous correspondence reads as follows:

"I must first of all express the satisfaction of my Government with the kind reception which His Excellency the Secretary of State gave to my previous note of June 26 [25]⁴² already referred to; with so much the greater reason in view of the fact that according to the opinions in his communication the Department of State shares with the Government of Honduras its point of view relative to the effectiveness in 1923 of the Convention of 1914 and relative to the promise of arbitration solemnly agreed upon in 1923 during the Conference on Central American Affairs. The weighty opinion of the Department of State comes to reinforce the conviction always held by the Government of Honduras in regard to the effectiveness of those mutual obligations.

His Excellency the Secretary of State makes the observation that although the Convention of 1914 was then in vigor the Government of Honduras in 1918 had recourse to mediation and in 1923 to the negotiation of a new agreement. Permit me to remark with all respect to Your Excellency that it is precisely around the Convention of 1914 that revolve all the diplomatic entanglements which obtained from the frontier difficulties between Honduras and Guatemala. When the first incidents arose in the middle of 1917 the Government of Guatemala sent to this Republic an extraordinary legation under Mr. Victor Sanchez Ocano for the purpose of effecting a direct agreement between the two countries. Mr. Sanchez Ocano as plenipotentiary of Guatemala and Dr. Marino Vasquez, Minister for Foreign Affairs of Honduras, signed on September 20, 1917, a "preliminary agreement," Article 5 of which reads as follows: 'It is understood that if the treaty here projected does not become effective for any reason and if it should not be ratified by the respective legislatures of Honduras and Guatemala, the boundary convention signed between the two republics on August 1, 1914, will remain in force.'

No definite agreement then having been reached the boundary convention of 1914 remained naturally in full effect.

Neither in the opinion of my Government does the mediation of the Government of the United States formally offered, according to a note from the American Legation in Tegucigalpa, dated December 26, 1917,⁴³ destroy the vigor of the convention of 1914 posterior to the mediation, as no definite agreement was reached through the mediation.

It is in consideration of such prior obligations that the Government of Honduras has maintained its thesis of arbitration by His Excellency the President of the United States of America, taking into account likewise the high equity and moral authority of the arbitrator and also the facilities which arbitration in this manner would offer, avoiding delays and difficulties which might prove to be unsurmountable in other methods recently suggested, as I ventured to indicate to Your Excellency in the previous note of June 25.

And I pass now to explain with the spirit of frankness and sincerity which animates my Government in its cordial relations with that of Your Excellency, the opinion just mentioned which was the

⁴² See telegram No. 78, June 25, 5 p. m., from the Minister in Honduras, p. 751.

⁴³ *Foreign Relations*, 1917, p. 797.

subject of observation by His Excellency the Secretary of State, according to the courteous communication addressed to me by Your Excellency on July 11th, accompanying your note of the same date above referred to.

As Your Excellency is aware the members for the formation of the International Central American Tribunal, according to article 2 of the convention of 1923, should be selected from a list of 30 jurists constituted as indicated in the same article. The names of the persons designated by the contracting parties should be communicated to the Minister for Foreign Affairs of Honduras by the Government which names them. The Minister for Foreign Affairs of Honduras should transmit the complete list to each one of the signatory republics.

Honduras as Your Excellency can see having been assigned the mission of communicating the complete lists for the formation of the Tribunal in conjunction with chancellery is in a position to appreciate better than any other bureau in the other countries the lack of the lists made at the proper time for the formation of the International Central American Tribunal.

In fact with the exception of the Government of the United States of America which presented its due list in accordance with article 3 of the convention, of the Central American Governments which ratified it only the Government of Costa Rica sent in its list dated October 30, 1925. The Government of Nicaragua has just sent in a list drawn up by decree of His Excellency the President of the Republic dated June 27th of the present year 1928. The Government of Honduras has not made its corresponding appointments and as according to article 2 of the convention the appointments made by the President of the Republic must have the approval of the National Congress, the list to be furnished by Honduras can only be valid after the next meeting of the Congress.

As result of such antecedents of undebatable authenticity, the calmed judgment of His Excellency the Secretary of State will appreciate that judicially, even when in a difficult and artificial manner we may have achieved the getting together of the present lists for the formation of the Central American Tribunal, such lists will be makeshift or temporary, gotten up for the handling of a concrete case in which event the Tribunal could not be such a one as would result from permanent lists made with complete isolation from the pending problems of Central America. In that sense the Tribunal itself would suffer from the effects of its artificial creation against the spirit and hopes which undoubtedly governed its establishment by the convention of 1923 because it would carry the taint of nullity to any of its findings as claimed and explicitly apprehended by subsection (a), paragraph 2 of article 1 of the convention itself. Naturally the foregoing considerations have no reference whatever to the reputation or high moral worth of the distinguished jurists who have been or may be appointed for the formation of the proposed Central American Tribunal.

In any event, even the remote contingency which would be considered by my Government, of success in establishing the Central American Tribunal in proper manner, I wish to give immediately some idea of the attitude taken by the Government of Honduras as to the ques-

tion of the nature of arbitration, in answer to the proposal made by His Excellency the Secretary of State and transmitted by Your Excellency in your note of June 5 last.

In the recently published work (1927) by the eminent American publicist, James Brown Scott, "The Hague Peace Conferences," the consideration is brought forward on page 200 that the United States has not only favored arbitration as a policy but has made it a juridical proceeding.

Earlier on page 195 he cited the following concepts of Renault in support of his idea: 'International arbitration will never develop soundly until it frees itself in the most positive manner from the domination of politics and diplomacy by which it has been so long confined and limits itself solely to the judicial field into which it has barely entered. It is only under such conditions that it can inspire confidence in governments and peoples and can offer guarantees to the smaller states often liable to [be] victims of political considerations.'

In the proposal of the Department of State contained in the before-mentioned note of June 5 there is laid down as one of the points presented for the consideration of my Government that the Tribunal of Arbitration be fully empowered to fix a definite boundary between Honduras and Guatemala "taking into consideration the political economic and commercial interests of both States" and also to determine the amount of whatever compensation might be found necessary or desirable to be made by one party to the other. His Excellency the Secretary of State with noble breadth of vision has later explained his idea indicating that his judgment does not exclude from the arbitration the judicial or documentary proof on which may rest the rights of the two parties; but as the legislative decree of Guatemala authorizing the Executive Power of that republic to accept arbitration establishes the above concept to which Honduras takes exception without other review, I must refer to him in that matter for the appropriate considerations.

My Government shares [with] the American author mentioned and with the United States of America, according to his opinion, the idea that arbitration is of an essentially judicial nature. Its judicial character is accentuated in territorial questions. In the boundary agreements made between Honduras and Guatemala in 1895 and 1914 it was established that to settle the question there would have to be considered the observations and studies of technical commissions; lines laid down in public documents and not contradicted by others of equal force, giving to each the value due its antiquity or judicial force; the extent of the territory comprised in the ancient provinces of Guatemala at the date of its independence, the contents of the royal ordinance of intendants which was then in force; and in general all the documents, maps, plan[s] et cetera which lead to the uncovering of the truth, giving preference to those which through their nature might carry most weight by reason of clearness, exactness and impartiality or for any other sound reason according to the principles of justice, all being conditions as Your Excellency will duly appreciate of a particularly juridical and scientific nature. Possession was given only the weight due to what was justly legitimately and fundamentally held according to the general principles of right and the rules of justice which in the premises had the sanction of the law of nations.

A proposal of arbitration which does not rest on a foundation essentially judicial, aside from any other conditions not based on right and justice, and the result being already interwoven with circumstantial conditions, is, in the opinion of my Government, an undertaking to which Honduras could not agree to entrust the vital interests of her territorial integrity without provoking the just censure of the public conscience.

Now animated by the highest sentiments of fraternity and conciliation and attentive to the friendly observations of the mediator government, Honduras would be able once a decision had been dictated based solely on juridical considerations, to consider then the question of reciprocal compensations on grounds of equity and mutual convenience. But such compensations, already contemplated in article 7 of the convention of 1914, must be the result of juridical arbitration and not of prior stipulation and agreements which would prejudice the final decision.

In view therefore of the following fundamental considerations: the nonexistence of the arbitrating tribunal; the impossibility of organizing it in the form required; and the restriction of the territorial rights of Honduras contained in the stipulations in the legislative decree of Guatemala which subjects the provisional arbitration to antecedent conditions dangerous for the integrity of the country, considerations which my Government hopes will be received with a generous and benevolent spirit by the Government of Your Excellency, in view of the rectitude and loyalty which has motivated them, my Government regrets that it is not able to accept the arbitration in the form proposed by His Excellency the Secretary of State in the note of Your Excellency of June 5, 1928, at the same time protesting its firm intention to accept any other arbitration under His Excellency the President of the United States of America, the Chief Justice of the Supreme Court of the United States or any other tribunal established in regular and permanent form. the arbitration being made in conformity with proved rights and documents of the parties and without other considerations than the ones which are derived from those rights.

I am happy to take this occasion to renew to Your Excellency the assurance of my distinguished consideration and high esteem. Signed, F. Davila."

This note and my note of July 11 based on your telegram No. 58 of July 10, 2 p. m., were published in the local press this afternoon.

Repeated to Guatemala.

SUMMERLIN

714.1515/785: Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, August 6, 1928—11 a. m.

[Received 11:40 p. m.]

102. Referring to my cable of July 27, 9 a. m. The Minister for Foreign Affairs has sent me with covering note a copy of a note he was sending on August 4th to the Minister for Foreign Affairs of Honduras

and which stated in substance that the mediation came about through an agreement participated in by Honduras and Guatemala with the participation of the United States as mediator; that the Mixed Boundary Commission had adjourned subject to call by the chairman, United States Minister Davis, to enable him to study the facts and to fix a provisional boundary in compliance with the charge entrusted to him; that, as a proceeding within the mediation, the Secretary of State of the United States had suggested an arbitration and that the Mixed Commission draw up the protocol of arbitration; that the unilateral action of one of the parties would signify the exclusion of the mediator prior to rendition of the decision with which he was charged; that the note of Secretary of State Kellogg did not render the existence of the Commission useless; that, therefore, Guatemala considers the Honduran Executive order as being purely for the purpose of changing the personnel of its Boundary Commission, but that if the Honduran Government were to give to that order "the far-reaching international importance of putting an end to the functions of the Mixed Commission," the Government of Guatemala "regrets to record its due and formal protest."

In compliance with a request of the Minister for Foreign Affairs the press appears to have been uniformly temperate in comments on the reply of Honduras to the arbitration proposal of Mr. Kellogg.

Repeated to Honduras.

GEISSLER

714.1515/785a : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, August 6, 1928—5 p. m.

70. Please deliver following note textually to the Minister for Foreign Affairs, informing Department by telegraph of day and hour of delivery. The note will then be made public here:

"I have received Your Excellency's note of July 27, a copy of which I have duly transmitted to my Government,⁴⁴ and in reply I am instructed to inform Your Excellency of the deep disappointment with which my Government has received the decision of the Government of Honduras not to accept the proposal made by the Secretary of State as a friendly mediator in the matter of the boundary dispute between Honduras and Guatemala, for a settlement of this long-standing controversy through its submission unreservedly to arbitration by the International Central American Tribunal. This disappointment is all the more keen in view of the fact that the Government of Guatemala, as Your Excellency's Government is aware, has already signified its unqualified acceptance of this proposal.

While at first glance it would not seem that the communication from the Honduran Government above referred to requires any further

⁴⁴ See telegram No. 94, July 31, 2 p. m., from the Minister in Honduras, p. 760.

reply, nevertheless my Government feels constrained to comment upon certain of the statements made in Your Excellency's note as forming grounds for the refusal by the Government of Honduras to submit this question unreservedly to arbitration.

My Government has duly noted Your Excellency's statements concerning previous agreements and efforts to adjust this controversy but is convinced that no useful purpose will be served by recapitulation of past difficulties and efforts which have proved unfruitful. It was precisely because experience has shown the difficulty of bringing about a solution of this controversy based on previous agreements or on a continuation of the methods then employed, that my Government felt the best prospect of success lay in a new agreement to submit this question to arbitration by an impartial tribunal.

Your Excellency states that the panel of the International Central American Tribunal is incomplete and points out that only the Governments of Costa Rica and Nicaragua have sent in their lists of members, and further remarks that the latter list was drawn up by a decree dated June 27 of the present year. My Government has been informed that the list submitted by the Nicaraguan Government was prepared in 1923 and there would therefore seem to be no basis for any supposition that either the Costa Rican or Nicaraguan lists were drawn up with the present controversy in mind. With regard to the failure of the Government of Honduras to make its appointments I have no comment to make, but inasmuch as the Government of Honduras would not have been able to select any jurists chosen from its own list the absence of this list would seem to be of no importance so far as Your Excellency's Government is concerned and does not limit the competency or the availability of the Tribunal in this case.

The Government of Salvador not having ratified the Convention establishing the International Central American Tribunal could not name a list of jurists; but nevertheless this Convention is in effect, with two lists of jurists nominated by countries not parties to the existing controversy.

As Your Excellency is doubtless aware, Article 26 of this Convention provides that the Convention shall take effect with respect to the parties that have ratified it from the date of its ratification by at least three of the signatory states. It was therefore foreseen that a case might arise in which resort would be had to this Tribunal when only the list of one state not a party to the controversy would be available for the selection of a tribunal.

There are now available for nomination as members of the Tribunal twelve distinguished jurists, the reputation and high moral worth of whom Your Excellency does not question, and of whom two are South Americans, eight are Central Americans and two are North Americans. Since the Tribunal would be made up of only three jurists one of whom could be selected by mutual agreement outside of the list of twelve mentioned above, it appears that it should not be difficult to select from this list the jurists necessary to form the Tribunal. My Government is fully satisfied therefore that if there is genuine desire to submit this question to settlement by the International Central American Tribunal no obstacle to the creation of an impartial tribunal exists.

To Your Excellency's observations that the idea of arbitration is essentially of a judicial nature, my Government takes no exception.

Nevertheless, though arbitrations are judicial in their nature, it has never been understood, nor has it been the practice, unless limited by the Protocol of Submission, that arbitrations of boundary disputes should not take into consideration the elements set forth in the proposal of the United States. After a careful study of the present controversy, with the details of which my Government is thoroughly familiar, it was felt that it would be to the best interests of both countries that a decision should not be based solely upon historical evidence purporting to set forth boundaries between Honduras and Guatemala before either of those nations existed as an independent republic. It was not intended that the Tribunal should ignore the judicial or documentary or historic proof on which the rights of the parties might rest but, on the contrary, all such documents and historic proof would be available to the arbitrators in this case. This could easily be provided for by the Protocol of Submission. It was to meet the practical considerations involved that my Government suggested that the arbitral tribunal should be authorized to take into consideration the existing political, economic and commercial interests of both states, thus permitting the tribunal to draw a boundary line which would be felt to be suitable under existing circumstances.

In suggesting that the tribunal be empowered to take into consideration the political, economic and commercial interests of both states in fixing a common boundary between them my Government did not doubt that this suggestion would be acceptable, in view of the fact that both Honduras and Guatemala, as a result of the mediation proceedings of 1917 and 1918, agreed to the appointment of a commission to make an economic survey of the territory in dispute. This survey was completed in 1919 and the report, which covered political, economic and commercial conditions, was communicated to both Governments, who, through their duly appointed representatives, presented arguments to the mediator based upon this report, thus making these elements a part of the controversy.

My Government has noted Your Excellency's expressed willingness to accept arbitration under the President of the United States of America or the Chief Justice of the Supreme Court of the United States, or any other tribunal established in regular and permanent form. It was the opinion of my Government that this question, involving a boundary between two Central American republics, could and should be arbitrated by the Tribunal which had been created by the Central American republics for the express purpose of arbitrating just such questions as this one. For this reason the Secretary of State made the proposal in the form that he did, feeling sure that both countries, if they could agree to submit the question to arbitration, would welcome the opportunity to submit it to arbitration by a tribunal which they themselves established rather than by any foreign tribunal.

In conclusion I am instructed to say that my Government feels that the suggestion which the Secretary of State made on June 5⁴⁵ is still open to acceptance by the Government of Honduras and hopes that Government will give careful reconsideration to the matter."

KELLOGG

⁴⁵ See footnote 23, p. 746.

714.1515/785 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

[Paraphrase]

WASHINGTON, August 8, 1928—1 p. m.

72. With reference to telegram No. 102, August 6, 11 a. m., from the Legation in Guatemala, it is the sincere hope of the Department that nothing in the reply of Honduras to Guatemala's note may tend to precipitate a break between the two countries. Although no report from you has been received by the Department in reply to the last paragraph of its telegram No. 67, July 27, noon, it hopes that the Executive order of Honduras was not issued for the purpose of withdrawing permanently from the existing Mixed Commission and that the Government of Honduras is prepared to appoint a representative on the Commission should there be further business for the Commission to transact. Please convey the above informally to the Foreign Minister.

The Department has by no means decided that it would be best under any circumstances for Mr. Davis to lay down a provisional line. It prefers that the situation as regards Honduras should remain such that it would be possible for Mr. Davis to do so should it ultimately appear that this would be the best course.

KELLOGG

714.1515/785 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

[Paraphrase]

WASHINGTON, August 8, 1928—2 p. m.

63. Your telegram No. 102, August 6, 11 a. m. The Department has interpreted the note of August 4 from Guatemala to Honduras as indicating that Guatemala is anxious to have Mr. Davis lay down a provisional line. The Department has by no means reached a decision as to whether or not it would be best under any circumstances for Mr. Davis to lay down a provisional line. Consequently the Department does not desire you to make any suggestions to the Government of Guatemala at this time. For your information, however, the Department desires you to know that it does not feel that Mr. Davis should under any circumstances undertake to lay down a provisional line unless he is free to fix the line unhampered by reservations on the part of either of the two countries, and unless both countries have committed themselves unreservedly to accept such a line as he may lay down. See Department's telegram No. 37, April 19, 9 p. m.⁴⁶

⁴⁶ See footnote 14, p. 736.

While the Department does not know the reason why Honduras canceled the nomination of its Boundary Commissioner, it is the hope of the Department that Guatemala will not make an issue of this action which might further strain the relations between Guatemala and Honduras.

KELLOGG

714.1515/796 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, August 17, 1928—4 p. m.

[Received 8:40 p. m.]

98. Your telegram No. 72, August 8, 1 p. m. Honduran reply to Guatemalan note received by mail was despatched yesterday by mail and is unprovocative and mild in tone. I do not believe this Government has any intention or desire to effect a diplomatic break with Guatemala.

SUMMERLIN

714.1515/800 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, August 23, 1928—9 a. m.

[Received August 24—1:03 a. m.⁴⁷]

103. Your telegram No. 70, August 6, 5 p. m. My telegram No. 95, August 8, 10 a. m.⁴⁸ I have received a note dated August 22nd from the Minister for Foreign Affairs which after lengthy résumé of my note of August 8th reads as follows:

“Maintaining in all its terms my prior note of July 27th last⁴⁹ the concepts of which I have had the satisfaction to have seen unweakened in any of their essentials, my Government also would believe a new reply unnecessary were it not for the frank and close cordiality of the relations it has the honor to maintain with that of Your Excellency, which motivates its desire not to leave without satisfactory explanation a single one of the observations that have been made and permits me to add new reasons in support of the point of view my Government justifiably maintains.

Without declaring, as indeed his just and exact discernment would not permit, the nonexistence of prior undertakings still in full force, which he implicitly recognizes, His Excellency the Secretary of State appears to attach decisive importance to the fact that these undertakings have not served efficiently to solve the question. But the fact

⁴⁷ Telegram in two sections.

⁴⁸ Not printed; it stated that the note contained in telegram No. 70, printed on p. 765, was delivered at 10 a. m., Aug. 8.

⁴⁹ See telegram No. 94, July 31, 2 p. m., from the Minister in Honduras, p. 760.

that one of the parties by its refusal to give effective form to the existing agreements has rendered them futile does not mean that the legal and moral force of those agreements has been affected and it would only serve for the consideration that future agreements might suffer a similar fate if the other party does not fulfill its obligations or puts obstacles in the way. In such a case it would be quite evident that new agreements given these antecedents could only be effective if the interests and rights of one of the parties were secured at the expense of those of the other party.

Clearly, according to the text of the convention of 1923, the intention of those who negotiated it was the formation of a 'complete, permanent' list of 30 juriconsults for the organization of the Central American Tribunal in each case which must arise. The Government of San Salvador not having ratified the convention the list is therefore reduced to 24. It is true that in conformity with article 26 of the convention it would enter into force by ratification of three at least of the signatory states. The convention is therefore effective; but the lists for the formation of the Tribunal were not drawn up in due time and these are even yet 'incomplete' according to the tenor of article 2 of the same convention. The legal effectiveness of a treaty is one thing but an entirely different question is that of the execution and fulfillment of its provisions. Thus the Government of Honduras has not been able to fulfill the obligation which is imposed upon it by the article 2 above cited of transmitting 'the complete list to each one of the signatory republics' because these lists have not yet been 'complete' as is explicitly required by the convention.

Now as concerns the date of the latter nominations my Government has abided scrupulously by the official decrees which have been communicated to it. Permit me to repeat, because it has been already expressed in my previous notes, that none of the considerations relative to the formation of the Central American Tribunal has any reference to the high moral worth and reputation of the juriconsults already named or to be named.

The fact has been pointed out that there are actually 12 distinguished jurists eligible for nomination as members of the Tribunal from whom may be chosen those necessary to form it, and thereupon would be constituted of three only, one of whom might be selected by mutual agreement aside from the list of 12 mentioned. My Government with great regret must differ completely with this opinion in regard to the possibility of the formation of the Tribunal in this manner, for it cannot reconcile such an opinion with the clear and definite provisions of articles 2 and 3 of the Convention, which Your Excellency will be able to appreciate upon the slightest examination. The spirit and letter of the agreement clearly indicate that the intention of those who negotiated it was that the tribunal, whenever it might be formed, should be established with all the requisites of the convention without departing from a single one of them. It is made clear in article 1, section 2, paragraph *a*, that the decision of the International Tribunal established by the convention would be null and any one of the parties might refuse to fulfill it 'when the Tribunal had not been organized in strict accordance' with the convention. My Government maintains the position that in whatever form it might be suggested the International Central American Tribunal should be constituted, under

present conditions, it would not be 'in strict accord' with the convention of 1923, from which are drawn the pertinent conclusions.

In the final session celebrated at Cuyamel on April 23rd of the present year the honorable representative of the mediating government declared the present existence of the arbitration agreement of February 7th, 1923; and after certain considerations of general character, he suggested to the Commissions of both countries that they obtain powers from their respective Governments with a view to negotiating a definitive treaty of arbitration, in conformity naturally with the exigencies of the obligation previously contracted and declared valid by representative of the mediating government.

The Government of Honduras being ready for the request which would be made of it for the purpose of formalizing the protocol of arbitration once recognized at Cuyamel, received with great surprise the unexpected proposal of His Excellency the Secretary of State contained in Your Excellency's note of June 5th last,⁵⁰ in which, disregarding or disavowing the resolution of his representative at Cuyamel, he proposes to my Government a negotiation entirely foreign to the nature of the arbitration agreed upon and distinct from all the antecedents bearing on the diplomatic procedure in this affair. Undoubtedly there is such a marked and profound difference between the propositions accepted at Cuyamel and the later proposal of His Excellency the Secretary of State that they are necessarily mutually exclusive.

Without objecting to the considerations advanced by my Government in regard to the juridical nature of the arbitration His Excellency the Secretary of State insists upon the idea of including in the protocol of arbitration elements opposed to the juridical concept. In this connection His Excellency the Secretary of State refers to the report of the Economic Commission presented in September 1921 after an inspection of the disputed zone.

In regard to this report which was refuted in certain of its extremes by the Counsel of Honduras, my Government has never considered it as anything more than a report of a technical character, for demonstration of the nature and economic and commercial value of the zone but never for giving any force to the respective rights of the parties.

The Government of Honduras does not deny the existence of political and economic interests or of those of any other nature in the disputed territory; and it is precisely because of the existence of such interests and because of the manner in which they were acquired that my Government would never be able to accept them as the basis of an arbitral decision, without diminishing the proven and documented territorial rights of the Republic.

The authority given by the Legislative Assembly of Guatemala to the Executive Power in decree number 1568 of the 18th of July last to accept the proposal of arbitration, states that 'the subject of arbitration will be the fixing of the common boundary between Guatemala and Honduras taking into consideration the political, economic and commercial interests of both countries and likewise the amount of whatever compensation may be thought due.' The legislative au-

⁵⁰ See footnote 23, p. 746.

thorization makes no reference at all to judicial and documentary proof of the premises; and naturally the representatives of Guatemala will not in such case be able to get away from the definite arrangement which is indicated by that legislative resolution; thus the protocol of arbitration will be negotiated on a basis of the interests indicated and not on a basis of resolutions adopted and justice. I have already regretfully informed Your Excellency that my Government cannot concur in any case in the drawing up of such a protocol, prejudicial and dangerous to the territorial rights of Honduras.

Concerning the idea expressed by Your Excellency that the question of frontiers between two Central American Republics ought to be arbitrated by the International Tribunal, created for the express purpose of arbitrating questions precisely similar to that under consideration, I must lay before Your Excellency the fact that on the day of the much heralded and solemn ceremony of the signing of the Convention of the Central American Tribunal, a separate agreement to arbitrate was reached, under the decision of His Excellency the President of the United States, indicating clearly that from then on the boundary question was to be out of the jurisdiction or field of action of the said Tribunal, in accordance with and carrying out the Convention of 1914, in force in 1923, as it is today with no later act having affected its existence. This significant fact leaves no doubt that, it have [*having*] already [*been*] agreed to submit the boundary question to arbitration by His Excellency the President of the United States of America, it was not contemplated that the question might be later submitted to a different decision.

In conclusion I desire to express once more to Your Excellency the profound appreciation with which the Government of Honduras receives the generous efforts of the Government of the United States of America toward the attainment of a satisfactory solution in the pending question of the boundary between Honduras and Guatemala; and for this reason, although I must again regretfully decline to reconsider the proposal of His Excellency the Secretary of State, and because of my duty to defend the territorial rights of the Republic, I repeat to Your Excellency our frank and firm disposition to accept whatever proposal of arbitration the illustrious American Government may put forward; under the control of whatever functionary, corporation or tribunal it may see fit to designate, so organized that there could not be later a motive for nullity and the arbitral decision being based on the fundamentals of law established by Article 6 of the Convention of 1914. I do not need to remind you that the said Convention also takes into consideration the existence of the interests established (article 6) so far as their possession is by right, is legitimate, and is established according to the general principles of law and the rules of justice which in the particular case are sanctioned by the law of nations. It also seems superfluous for me to add, considering the fraternal feeling and responding to the elevated and conciliatory proposals of the Government of the United States of America, that the Government of Honduras will find it agreeable, after the judicial arbitral award, to discuss with the Government of Guatemala any agreements or formalities for the reciprocal and equitable benefit of both countries. Under such conditions the Government of Honduras would be prompt to appoint its commissioners or representatives for arranging the arbitration, either under the agreement of 1923 or under

the new form the American Government might suggest, in harmony with the frank and cordial observations I have had the honor to present in detail, with due respect and honor toward the honorable mediating government.

The Government of Guatemala, bound by a present constitutional restriction, could not allege any impediment to the effectiveness of the arbitration agreed upon in 1923, since at that time there did not exist the mandate which now restrains her to such an extent as to make impossible any settlement by means of arbitration under the terms imposed. It would seem that the American Government has ample perspective with which to reach a solution which will satisfy all interests, harmonize all difficulties and guarantee all rights.

Please accept, etcetera. (Signed) F. Davila."

Repeated to Guatemala.

SUMMERLIN

714.1515/799 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

[Paraphrase]

GUATEMALA, August 23, 1928—10 a. m.

[Received 11:50 a. m.]

105. A memorandum was signed yesterday by the Foreign Minister and myself which reads in translation as follows:

"General Chacón, President of Guatemala, and Señor Carlos Salazar, Minister for Foreign Affairs, stated confidentially to Mr. Geissler, the American Minister, for the orientation of the Department of State in its negotiation with the Government of Honduras in the matter of the boundary that, in case Honduras should propose that the President of the United States or the Chief Justice of the Supreme Court of that country preside over the Central American Tribunal in conformity with the proposal made by the Secretary of State, Mr. Kellogg, on June 5, 1928, Guatemala would accept."

The above has been paraphrased.⁵¹

GEISSLER

714.1515/800 : Telegram

*The Acting Secretary of State to the Minister in Honduras
(Summerlin)*

WASHINGTON, August 30, 1928—1 p. m.

81. From the tenor and tone of the latest note from the Honduran Government transmitted in your 103, August 23, 9 a. m., the Department is satisfied that no useful purpose will be served by pursuing this correspondence further, at least until, as the result of your fur-

⁵¹ The paraphrased translation has been replaced by a translation supplied by the editor from copy of the Spanish text transmitted in the Minister's despatch No. 2063, Aug. 22 (file No. 714.1515/807).

ther conversations with the Honduran authorities you report a change in their present attitude, and the Department does not, therefore, contemplate making any reply to this communication. For your personal information and guidance in informal conversation however the Department desires to make the following observations:

1. The Department of course gave more than the "slightest examination" to the Convention which established the Central American Tribunal before submitting the arbitration proposal to Honduras and Guatemala. This proposal was made only after a careful and conscientious study of the Convention as the result of which the Department concluded that the Tribunal is competent to function in this matter, and after considering the arguments presented by Honduras the Department finds no reason to change its conclusion.

2. With reference to that part of the note of the Honduran Government which refers to the arbitration proposal made by Mr. Davis at Cuyamel on April 23, Mr. Davis states that he did not suggest either formally or informally that either the agreement to arbitrate announced at Washington in 1923 by representatives of both Governments at the Central American Conference, or the 1914 Treaty should form the basis of the proposed arbitration. The fact that he proposed arbitration by an arbitrator or "arbitral board" bears out this conclusion. A perusal of Mr. Davis' proposal shows that while reference is made to the announcement made in 1923 this reference was included merely to show that both countries had shown a desire to arbitrate the controversy. The Department's proposal of June 4 is, therefore, simply an amplification of Mr. Davis' proposal and suggested that the existing Mixed Commission should draw up a protocol of arbitration, which this Commission had not hitherto had the opportunity to do.

3. The suggestion that the Arbitral Tribunal should "take into consideration political, economic and commercial interests of both countries" cannot in the Department's opinion be interpreted as barring from consideration arguments based on historical grounds. The Department has no reason to believe that Guatemala has so interpreted it. In any case this point could and should be made perfectly clear in drawing up the protocol of submission.

4. In making the suggestion mentioned the Department had no reason to believe that the consideration by the Arbitral Tribunal of the political, economic and commercial factors involved would in any way weaken the case of Honduras since the Department understands that that country has strongly established interests of this nature in the disputed territory. Moreover, the Department was confident that the submission of the question to arbitration on these bases would be equally fair to both countries and offer the best way to a practicable solution.

5. The Department is much concerned at the continued refusal by Honduras to submit this question to arbitration on the bases already accepted by Guatemala. Honduras has insistently claimed that Guatemala has from time to time penetrated the disputed territory and through gradual encroachment has established illegal control in a considerable section of that territory. If this claim is true it should be apparent to Honduras that leaving the situation in its present unsatisfactory state would open the way to further penetration by Guatemala in the disputed area. The proposed arbitration offers Honduras an opportunity to end the situation to which she objects, and to establish her claims in the disputed area. It appears to the Department that Honduras in declining to accept the proposal is assuming the responsibility for the continuance of this situation.

6. The Department also desires you to submit your personal views as to the reasons prompting the Honduran Government's refusal to accept the Department's suggestion and the possibility that this suggestion may ultimately be accepted either after the elections or by another administration.

7. In your conversations with the Honduran authorities please also bear in mind the considerations set forth in the Department's telegram No. 65, July 20, 7 p. m. and in the memorandum accompanying the Department's instruction No. 272, dated July 24.⁵²

CASTLE

**GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF
AMERICAN INTERESTS DESIRING TO ESTABLISH AIR LINES IN
LATIN AMERICA**

Pan American Airways, Incorporated

810.79611 Pan American Airways, Inc./21

The Pan American Airways, Inc., to the Department of State

NEW YORK, *February 16, 1928.*

[Received February 17.]

GENTLEMEN: This Company's airplane "Pan-America" will leave Key West, Florida, on or about February 28th, and will cover the following itinerary, as nearly as practicable:

February	28—San Miguel, Yucatan
	29—Belize, British Honduras
March	1—Puerto Barrios, Guatemala
	2—Guatemala City, Guatemala
	4—San Salvador, Salvador
	6—La Union, Salvador

⁵² Instruction No. 272 and accompanying memorandum not printed; substance of the memorandum was transmitted to the Minister in Honduras in Department's telegram No. 65, July 20, 7 p. m., p. 755.

March	10—Managua, Nicaragua
	13—San Jose, Costa Rica
	15—Colon, Canal Zone
	17—Limon, Costa Rica
	20—San Juan Del Norte, Nicaragua
	22—Managua, Nicaragua
	24—Puerto Barrios, Guatemala
	27—Belize, British Honduras
	29—San Miguel, Yucatan
April	31—Cape San Antonio, Cuba
	1—Havana, Cuba

Of course, this itinerary is only tentative, and the schedule must vary with weather conditions and delays encountered. However, it is requested that permission be obtained from the Governments of Mexico, British Honduras, Salvador, Guatemala, Honduras, Nicaragua, Costa Rica and Panama to land in these countries without having to undergo the customary formalities and complications of clearance, etc. It is also requested that the Consular Representatives of the United States at the places above mentioned, and also at places hereinafter mentioned, be notified of this flight, and instructed to render every assistance possible to the early consummation of the Company's survey work.

The purpose of this flight is to survey the most feasible airway between Key West and Colon, in anticipation of the award of a mail contract for a service over this route. It may be necessary to touch at certain additional places, particularly Corinto, Nicaragua and Tegucigalpa, Honduras.

Mr. J. E. Whitbeck will be in charge of this flight, and will be instructed to communicate his departures and arrivals to the nearest American Consul, as well as to advise both Consular and Diplomatic Representatives of the United States more exactly as to his time of arrival, when it can be determined.

It will be impossible to maintain the above schedule unless requested exemption from the customary red tape is obtained, and it is, of course, of vital importance to the Company to have this survey completed before the rainy season begins in the middle of April.

Very truly yours,

PAN AMERICAN AIRWAYS, INC.
By JOHN A. HAMBLETON

Key West to Colon, and informs you that in compliance with the request contained therein instructions have been sent to the American Embassies at Mexico City and Habana, the Consulate at Belize, British Honduras, and the Legations at San Salvador, Guatemala City, Tegucigalpa, Managua and San José,⁵³ with a view to obtaining permission for flight over the territory of the countries concerned and also exemption from the usual formalities of clearance. The American consular officers at the other places mentioned in your letter under reference have been instructed to render all possible assistance. It is noted from your letter of February 23⁵⁴ that the flight will leave Key West on March 7.

A statement of the expense incurred in this telegraphic correspondence on your behalf will be sent you in due course.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

Assistant Secretary

S10.79611 Pan American Airways, Inc./46

The Secretary of State to the Pan American Airways, Inc.

WASHINGTON, March 7, 1928.

SIRS: The Department refers to its letter of February 25 last in connection with your plans for a flight from Key West to Colon, and informs you that it is in receipt of telegrams from the American Legations at San Salvador, Guatemala City, Tegucigalpa, Managua and San José, as well as from the Embassies at Mexico City and Habana and the Consulate at Belize,⁵³ according to which the desired arrangements have been made.

The Legation at Panama was instructed on February 25⁵⁴ to notify the Government of Panama of the proposed flight and also to request the American Consul at Colon to render all possible assistance to Mr. Whitbeck, who was expected to reach there about March 21. This instruction does not call for a reply.

The American Minister at Guatemala suggests in his telegram that he be notified a few days in advance of the arrival of Mr. Whitbeck, and points out that there is no landing field at Puerto Barrios.

I am [etc.]

For the Secretary of State:

[STOKELEY W. MORGAN]

Chief, Division of Latin American Affairs

⁵³ None printed.

⁵⁴ Not printed.

810.79611 Pan American Airways, Inc./48 : Circular telegram

*The Secretary of State to the American Diplomatic Representatives
in Costa Rica, Guatemala, Panama, and Salvador*

WASHINGTON, March 7, 1928—6 p. m.

Pan American Airways flight postponed approximately 30 days.

KELLOGG

810.79611 Pan American Airways, Inc./49 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, March 16, 1928—5 p. m.

21. John D. MacGregor, Vice President Pan American Airways, will arrive by train March 20, for the purpose of obtaining a transport concession. Please render him all possible and proper assistance.

KELLOGG

810.79611 Pan American Airways, Inc./50

*The Secretary of State to the Minister in Nicaragua (Eberhardt)*⁵⁷

No. 331

WASHINGTON, March 17, 1928.

SIR: The Department has been informed that Mr. John D. MacGregor, Vice President of Pan American Airways, Inc., 100 East 42nd Street, New York City, is planning to make a trip through the countries of Central America for the purpose of obtaining airplane transport concessions. Mr. MacGregor expects to reach Guatemala on March 20 and shortly thereafter to visit the country to which you are accredited.

Should Mr. MacGregor call upon you the Department will be pleased to have you extend to him all possible and proper assistance toward the accomplishment of his mission.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

810.79611 Pan American Airways, Inc./56

The Minister in Guatemala (Geissler) to the Secretary of State

No. 1861

GUATEMALA, March 26, 1928.

[Received April 4.]

SIR: With reference to the Department's cablegram No. 26 [21] of March 16, 5 p. m. instructing the Legation to render all possible and

⁵⁷ The same, on the same date, to the Ministers in Costa Rica (No. 441), Honduras (No. 238), and Salvador (No. 116).

proper assistance to Mr. John D. MacGregor, Vice President of the Pan American Airways Incorporated, in his effort to obtain a transport concession, I have the honor to report, that I arranged for the President of Guatemala to receive Mr. MacGregor today; and that since then he has informed me, that he has had a very pleasant preliminary talk with President Chacón concerning his project, and that he will visit the Minister of the Interior (*Fomento*) tomorrow, as suggested by the President, for the purpose of discussing details.

I have [etc.]

ARTHUR H. GEISSLER

810.79611 Pan American Airways, Inc./57 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, April 18, 1928—7 p. m.

36. Department's 21, March 16, 5 p. m. Pan American Airways report MacGregor having difficulties in his negotiations. Report briefly by cable, fully by mail present situation and render all possible assistance.

KELLOGG

810.79611 Pan American Airways, Inc./58 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, April 24, 1928—11 a. m.

[Received 4 p. m.]

49. Referring to the Department's telegram of April 18, 7 p. m. MacGregor appears to have been making considerable progress but encountered delay because of consideration given by Council of State to question whether Gordon contract (see despatch No. 1741⁵⁸) interferes, and subsequently by impending reorganization of Council of State.

April 20 in personal interview I requested the President to receive him again. MacGregor says that the President and the Minister of Fomento have assured him that they will sign the contract when returned by the Council. He hopes to get contract signed within 10 days and requests that the company be informed that because of Guatemalan censorship he is not cabling but that he is writing fully.

Full details by mail.

GEISSLER

⁵⁸ Not printed; it was dated Dec. 24, 1927, and informed the Department that under date of Dec. 19, 1927, an aviation contract had been awarded by the Guatemalan authorities to Victor D. Gordon, an American citizen. (File No. 814.796 Gordon, Victor D./4)

810.79611 Pan American Airways, Inc./64 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, *May 2, 1928—12 noon.*

[Received 9 p. m.]

59. Upon instruction of the Pan American Airways, MacGregor left today via San Salvador for Tegucigalpa to open negotiations for transport concession.

The Government here is indisposed to take action on the company's application while the Cabinet resignations are pending. Repeated to Tegucigalpa and San Salvador.

GEISSLER

810.79611 Pan American Airways, Inc./70

The Minister in Salvador (Caffery) to the Secretary of State

No. 1118

SAN SALVADOR, *May 5, 1928.*

[Received May 21.]

SIR: Referring to previous correspondence on the question of the efforts of the Pan American Airways, Inc., to establish an air service between Key West and points in Central America, and with special reference to Minister Geissler's telegram of May 2, 4 p. m., 1928,⁵⁹ stating that the Vice President of Pan American Airways, Inc., Mr. J. G. [D] MacGregor, had left Guatemala for Honduras, via San Salvador, I have the honor to report that Mr. MacGregor called to see me on Thursday last, stating that he was remaining here only for the day and did not then desire to take up the matter of interesting the Government of Salvador in the establishment of an air service. He told me that, in view of the failure of the Government of Guatemala to take any action on his Company's offer (although he had remained six weeks in the City of Guatemala), his principals had directed him to proceed immediately to Tegucigalpa and endeavor to interest the Government of Honduras in the project. He stated also that the plans had been radically changed; the route, now under consideration, would come neither to Guatemala nor San Salvador, but would pass via Belize, British Honduras and Tela, to Tegucigalpa; that there was a possibility that later on a shuttle route between Tegucigalpa and San Salvador might be established; he would let me know how his negotiations in the capital of Honduras proceeded.

I have [etc.]

JEFFERSON CAFFERY

⁵⁹ See telegram No. 59, May 2, noon, from the Minister in Guatemala, *supra*.

810.79611 Pan American Airways, Inc./68 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, May 11, 1928—6 p. m.

125. Pan American Airways Incorporated, which contemplates establishment of air mail and passenger service between the United States and Panama Canal Zone via Cuba, is desirous of flying its planes in this connection over the State of Yucatan and Territory of Quintana Roo. Company understands that local authorities have no objection provided permission of Federal Government is obtained and presumes that in view of Article 4 of Pan American Commercial Aviation Convention signed at Havana by three Mexican delegates⁶⁰ the Mexican Government would raise no objection to free passage of company's planes.

At the instance of the company please request permission of Mexican Government for company's planes to fly over Yucatan and Quintana Roo on their regular trips and to land at Merida when necessary. Company makes no request for preferential permission of any kind nor for the right to conduct any commercial undertakings on Mexican soil.

Please telegraph Mexican Government's reply.

KELLOGG

810.79611 Pan American Airways, Inc./79 : Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

MEXICO, June 23, 1928—11 a. m.

[Received 7:10 p. m.]

166. My 144, June 2, 1 p. m.⁶¹ A note dated June 21 received today from the Acting Minister for Foreign Affairs states that the authorities concerned have granted permission of a provisional character for the airplanes of the Pan American Airways, Incorporated, to fly over Yucatan and Quintana Roo in their journey from the United States to Canal Zone with the reservation that definite permission may be given on the basis subsequently to be stipulated when the Pan American commercial aviation convention recently signed at Havana is ratified.

Text of note by the pouch.

SCHOENFELD

⁶⁰ *Ante*, p. 585.

⁶¹ Not printed.

S10.79611 Pan American Airways, Inc./97

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 712

MANAGUA, June 23, 1928.

[Received July 11.]

SIR: With reference to the Department's instruction No. 331 of March 17, 1928, I have the honor to transmit herewith a copy and translation of the contract signed by the Nicaraguan Government and Mr. John D. MacGregor as representative of the Pan American Airways, Incorporated, for the establishment of an air mail and passenger service between the United States, Nicaragua, and the Canal Zone.

Upon Mr. MacGregor's arrival in Nicaragua I introduced him to the President and explained briefly the interest of the United States in the proposed air mail service. I subsequently extended to Mr. MacGregor such additional assistance as seemed proper. He encountered no opposition in connection with his contract and its signature was delayed only by the necessity of waiting for the arrival of his power-of-attorney from his own company and by the inevitable mechanical delays in the Department of Fomento. I am transmitting herewith for the Department's information a copy of a letter from Mr. MacGregor in which he expresses his appreciation of the Legation's assistance.⁶²

When Mr. MacGregor's proposal was first presented to the President the latter said that he had recently promised Mr. Goodell, the manager in Honduras for the United Fruit Company, to give him preference for the establishment of an air mail service from Honduras to Nicaragua if the fruit company should decide to extend to this country the service already operated between Tela and Tegucigalpa. The President was therefore reluctant to conclude a new contract without being released from this promise. Mr. MacGregor assured both the President and the Legation that the United Fruit Company was favorably inclined to the establishment of his own service and would cooperate in every way and he promised to obtain immediately instructions from the United Fruit Company to Mr. Goodell to cable to the President, releasing him from the promise referred to. While no such cable arrived before Mr. MacGregor's departure from Managua, the President signed the concession on this assurance. I am transmitting herewith for the Department's further information a copy of a further letter which Mr. MacGregor wrote to me in this connection.⁶²

It will be noted that the concession provides for the establishment, without subsidy from the Government, of a passenger and mail

⁶² Not printed.

service for which the company will be free to establish such tariffs as it sees fit. The Government promises to deliver to the company all correspondence to be delivered by air mail. Mr. MacGregor stated at the outset that this was the only special or exclusive privilege which the company desired. Article 21 of the concession as signed however contains certain additional provisions designed to safeguard the company against interference in the conduct of its service, which could perhaps be interpreted in such a manner as to make it impossible or very difficult for a rival company to engage in commercial aviation in Nicaragua. This article, which underwent some changes after the original draft of the contract had been submitted to the Legation, was not brought to the Legation's attention in its final form until the contract itself had been signed.

Mr. MacGregor returned to Tegucigalpa on June 21 on the airplane which was sent to bring an instruction transmitted by the Department through the Legation there. He informed me that he expected to conclude his negotiations in Tegucigalpa without difficulty and that the establishment of the service would be assured when the concessions from Honduras and Nicaragua were ratified by the congresses of these two countries. It cannot however be actually inaugurated until about one year after such ratification, because of the necessity for building planes and constructing airports in the meantime. While the company desires to extend its service also to the other Central American countries it will not be necessary to do so in order to assure a through service between the United States and the Canal Zone.

I have [etc.]

CHARLES C. EBERHARDT

[Enclosure—Translation—Extract]

Contract Between the Government of Nicaragua and the Pan American Airways, Inc., Signed June 18, 1928

XXI. Due to the circumstance that the Company is the one which will establish for the first time the service to which this contract refers, and in consideration of the large expenditures which the said Company will have to make in order to commence and operate this service, the Government agrees not to concede to any other company, person or corporation rights and privileges which might interfere with or injuriously affect in any way those which by means of this contract are conceded to the said Company, or which might disturb or interrupt the proper maintenance of this service, or which might endanger the life or property of the officers or passengers of the Company or of its clients in Nicaragua, such as authorizing that the radio stations, telegraph stations, air ports, or other like equipment, whether the property of the Company or of the Government, could

be used in common with other companies, firms, individuals, or organizations that interest themselves or desire to interest themselves in the field of commercial, experimental, or amateur aviation in the Republic of Nicaragua.

810.79611 Pan American Airways, Inc./82 : Telegram

The Secretary of State to the Chargé in Great Britain (Atherton)

WASHINGTON, June 26, 1928—3 p. m.

161. Pan American Airways, Incorporated, 100 East 42nd Street, New York, made application sometime ago to Government of British Honduras for authorization for their aircraft to land and take off from British Honduras and to use crown land for a landing field or to acquire and develop airport. The company has informed the Department that although the British Honduran Government is willing to grant this authorization the Colonial Office has withheld its approval because of the absence of a general aviation agreement between Great Britain and the United States.

Take up this matter immediately with appropriate authorities and endeavor to bring about favorable decision. You may assure British authorities that Federal Government of United States is prepared to grant on a reciprocal basis to British nationals and British concerns the same privileges that are desired in British Honduras by Pan American Airways, Incorporated, and to endeavor to arrange for granting of like facilities by interested State Governments. Experience in this latter regard convinces Department that there would be no difficulty in effecting arrangements. Department is informed that authorization of British authorities is necessary by July 1 next.

KELLOGG

810.79611 Pan American Airways, Inc./84 : Telegram

*The Secretary of State to the Minister in the Dominican Republic (Young)*⁶⁴

WASHINGTON, June 28, 1928—1 p. m.

12. Pan American Airways which is now operating a mail and passenger service between Key West and Habana desires to inaugurate shortly, a bi-weekly passenger service between San Antonio, Cuba, and San Juan, Porto Rico, via Port au Prince and Santo Domingo. The Company is endeavoring to make an initial flight beginning next Monday and to inaugurate thereafter as promptly as possible a regular service. Please request permission of the Dominican authorities

⁶⁴ The same, *mutatis mutandis*, on the same date to the Chargé in Haiti as telegram No. 33.

for a ship of the Pan American Airways to make the initial flight next Monday or as soon thereafter as possible and inquire whether the Government would also be disposed to give permission for the establishment of a regular service by this Company.

KELLOGG

810.79611 Pan American Airways, Inc./85 : Telegram

The Minister in the Dominican Republic (Young) to the Secretary of State

SANTO DOMINGO, June 29, 1928—10 a. m.

[Received 1:25 p. m.]

39. Department's telegram 12, June 28, 1 p. m. Dominican authorities grant permission for initial flight and are favorably disposed towards establishment regular service but suggest formal arrangements for latter since landing facilities apparently necessary.

YOUNG

810.79611 Pan American Airways, Inc./86 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, June 29, 1928—1 p. m.

[Received 2:45 p. m.]

69. Department's 33, June 28, 1 p. m.⁶⁵ Haitian Government authorizes ship of the Pan American Airways to make contemplated flight. Permission also granted to use local Marine Corps' landing field for this flight. The question of the Government granting permission for establishment of a regular service by this company will be considered but anticipate no difficulty in this regard. See my despatch No. 1050, August 8, 1927, High Commissioner's Series.⁶⁶ Please request pilot to telegraph ahead day and hour of arrival here.

GROSS

810.79611 Pan American Airways, Inc./87 : Telegram

The Ambassador in Cuba (Judah) to the Secretary of State

HABANA, June 29, 1928—3 p. m.

[Received 5:02 p. m.]

99. For White. Pan American Airways tells me they must submit bid July 2nd to Postmaster General New covering United States-Porto Rican and the United States-Mexican mail routes. As part of

⁶⁵ See footnote 64, p. 784.

⁶⁶ Not printed.

bid they must show they have permission to pass through Cuba and use landing fields here. Their petition for this privilege has been favorably acted upon by the Aviation Commission and decree is being prepared for President's signature. I talked with the President this morning. He is satisfied with contract and says that he will sign decree. President leaves tonight for the Isle of Pines and it will take several days before the decree can be prepared and signed. Will you inform Postmaster General New before July 2nd that I think from my conversation with Machado there is no question about signing of decree and that if he awards the contract to the Pan American Airways there will be no difficulty in their crossing Cuba and using landing fields here.

JUDAH

810.79611 Pan American Airways, Inc./92: Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, July 5, 1928—6 p. m.

56. Pan American Airways state their representative MacGregor telegraphed up that newspaper opposition is being created to the granting of contract to Pan American Airways because it is charged that the Company is connected with United Fruit Company. Pan American Airways assures Department that it has no connection whatsoever with United Fruit Company and asks that you make this known.

KELLOGG

810.79611 Pan American Airways, Inc./99: Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

[Paraphrase]

WASHINGTON, July 11, 1928—7 p. m.

60. Department has been informed by the Pan American Airways, Incorporated, that Mr. MacGregor, their representative, is experiencing difficulty in securing a contract for air mail service. The company says that it would be very helpful if you would discuss the matter in its behalf with the President of Honduras. It is the desire of the Department that you do so as soon as possible.

The Post Office Department has just awarded a contract to the Pan American Airways for air mail service from Key West to the Panama Canal via Cuba, Mexico, British Honduras, Honduras, Nicaragua, Costa Rica, and Panama. The Department is very anxious that this American concern should be able to begin operations without delay.

It is the feeling of the Pan American Airways that the German aviation interests in Colombia may have inspired some of the hostile press reports in Honduras. This is not unlikely, as they have been hostile to American interests. A report in this matter is requested. The Department, of course, desires very much that the air mail service be in the hands of a reliable American organization.

KELLOGG

810.79611 Pan American Airways, Inc./109 : Telegram

The Secretary of State to the Chargé in Venezuela (Engert)

WASHINGTON, July 11, 1928—7 p. m.

23. Your 71, July 3, 5 p. m.⁶⁷ Pan American Airways which has been awarded contract by Post Office Department for carrying mail from Key West to Panama Canal Zone and has bid on line from Key West to Porto Rico, informs Department it will send representative to Caracas within three weeks. Please render all possible assistance.

KELLOGG

810.79611 Pan American Airways, Inc./102

The Assistant Secretary of State (White) to the Counselor of Embassy in Cuba (Curtis)

WASHINGTON, July 12, 1928.

DEAR CURTIS: Mr. Juan Trippe, President of the Pan American Airways, Incorporated, who were given last week the contract for ten years by the Post Office Department to carry the mails from Key West to Panama and also have a contract in Cuba for carrying international mails to Santiago, and who have bid for the contract from our Post Office Department to carry the mails from Key West to Porto Rico, advises me that certain German interests are now endeavoring to obtain a concession in Cuba to carry the Cuban domestic mails throughout the Island. Mr. Trippe states that his company wants to undertake this work and feels that with their international organization they will be able to render better and cheaper service than a company that is carrying just the domestic mails. The matter is up with Señor Sanchez Aballi, Secretary of Communications, and Mr. Trippe has asked me to ask you to pass on the word to Señor Sanchez that they are anxious to do the work and hope that the Cuban Government will not give the Germans the contract until they have had a chance to make them a proposition.

We are most anxious here to have American aviation as prominent as possible in the Caribbean region and for that reason this Depart-

⁶⁷ *Post*, p. 830.

ment did everything possible to favor the bill that was enacted by Congress at its last session authorizing the Post Office Department to give subventions for the carrying of air mail in the Caribbean region. The Pan American Airways is a hundred per cent American owned and managed company and for that reason we would be glad to see it, rather than Germans, have the contract in Cuba. The next time you see Sanchez or, if you do not see him shortly, if you could arrange to see him soon and pass this word on to him, I think it would be beneficial. I understand that Sanchez would rather give the concession to the Pan American Airways in any event and if he knows that they will undertake the work I think that he will keep it open for them.

Yours very sincerely,

FRANCIS WHITE

810.79611 Pan American Airways, Inc./101

The Assistant Secretary of State (White) to the Minister in Guatemala (Geissler)

WASHINGTON, July 12, 1928.

DEAR MR. MINISTER: The Pan American Airways were not successful in obtaining a contract in Guatemala for the carrying of air mail and for that reason have dropped it and have taken up negotiations in Honduras and Nicaragua. They have now obtained a contract in Nicaragua and will probably obtain a contract in Honduras within the next few days. We also expect the matter of their contract in British Honduras to be arranged this week. The Post Office Department gave them the contract last week for ten years to carry the mails from Key West to the Panama Canal and they will go via Cuba, Mérida in Yucatan, Belize, Tela, Tegucigalpa, Managua, San José, and Panama. It is not necessary for them to come into Guatemala but it occurs to me, now that the Guatemalan Government sees that they are being left out, and it was on account of their failure to give a contract to the Pan American Airways that the Post Office Department excluded Guatemala in the call for bids, that Guatemala may now think better of it and want to give a satisfactory contract to this company. Will you please let me know what the situation is and whether you think this is now a favorable moment for the company to take the matter up again by sending a representative to Guatemala. They can probably do so after their Honduran-Costa Rican concessions have been completed.

With kindest regards [etc.]

FRANCIS WHITE

810.79611 Pan American Airways, Inc./112

*The Pan American Airways, Inc., to the Assistant Secretary of State
(White)*

NEW YORK [*undated*].

[Received July 26, 1928.]

DEAR MR. WHITE: We are planning on a survey flight through Central America to the Panama Canal Zone leaving Havana about August 18th.

The route will be as follows:

Havana, Cuba
Cozumel, Mexico
Belize, British Honduras
Tela, Honduras
La Union, Salvador
Punta Arenas, Costa Rica
San Jose, Costa Rica
David, Panama
Panama City, Panama
Canal Zone

In covering this route by air, we will need permission from the governments of Honduras, El Salvador, Costa Rica and Panama. Will you kindly have the American Ministers to those countries instructed to secure for us permission to land and refuel our plane and to make incidental survey flights in the vicinity of the cities named in those four countries. It will be satisfactory to handle the entire correspondence by mail.

With many thanks for your help in this and other activities in Central America, we remain [etc.]

PAN AMERICAN AIRWAYS, INC.

By P. E. D. NAGLE

810.79611 Pan American Airways, Inc./117

The Secretary of State to the Pan American Airways, Inc.

WASHINGTON, August 14, 1928.

SIRS: With reference to your undated letter to Mr. White, received July 26, stating that you are planning a survey flight through Central America to the Panama Canal Zone, and asking that the American Ministers in Honduras, El Salvador, Costa Rica and Panama be instructed to procure certain facilities in your behalf, the Department is pleased to inform you that the desired instructions were promptly sent.

In this connection it should be said that the Department has ascertained from the American Consul at Belize, British Honduras, that the facilities obtained pursuant to the request contained in your letter of February 16 last are still available. It is stated by the Consul that rain and squalls are more frequent in August and that the prevailing wind is east-southeast with an average velocity of fourteen miles per hour; also that the landing field is used every Saturday and Sunday for sports but will be free if he is notified of the date of arrival of your plane.

I am [etc.]

For the Secretary of State:

S. W. MORGAN

Chief, Division of Latin American Affairs

810.79611 Pan American Airways, Inc./127 : Telegram

*The Acting Secretary of State to the Chargé in the Dominican Republic (Young)*⁶⁸

WASHINGTON, September 10, 1928—6 p. m.

24. The Department is informed that Mr. P. E. D. Nagle, representing the Pan American Airways, Incorporated, is proceeding to the Dominican Republic in connection with the taking over by his firm of the West Indies Aerial Express for the establishment of a commercial air service between Miami, Florida and San Juan, Porto Rico. Mr. Nagle and the Pan American Airways are well and favorably known to the Department and you are instructed to accord him such assistance as may be possible and proper.

CLARK

810.7961 Pan American Airways, Inc./131

The Secretary of State to the Minister in Honduras (Summerlin)

No. 285

WASHINGTON, September 14, 1928.

SIR: The Department acknowledges the receipt of your despatch No. 680 of August 15, 1928, enclosing a copy of a memorandum dated August 14,⁶⁹ which you received from Mr. MacGregor containing a report of his efforts to secure a contract for the Pan American Airways, Incorporated, from the Honduran Government.

The Department has noted from this despatch and previous correspondence on the subject the difficulties which Mr. MacGregor appears

⁶⁸ The same, *mutatis mutandis*, on the same date to the Chargé in Haiti as telegram No. 60.

⁶⁹ Neither printed.

to have encountered. The Department does not appear, however, to have received a comprehensive report from you on the situation confronting Mr. MacGregor, and on the efforts which it is presumed you are making on his behalf.

Inasmuch as the Pan American Airways, Incorporated, has already received a contract from the United States Post Office for the transportation of mail between this country and Panama and as the obtaining of a satisfactory contract from the Honduran Government is necessary for the fulfillment of the contract with the United States Post Office, the Department considers it of vital importance to American interests generally and for the development of American commercial aviation in Central America especially that Mr. MacGregor should be successful in his negotiations with the Honduran Government.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

810.79611 Pan American Airways, Inc./186

The Assistant Secretary of State (White) to the Chargé in France (Armour)

WASHINGTON, September 26, 1928.

DEAR NORMAN: Mr. Juan R. Trippe, President of the Pan American Airways, Incorporated, 100 East 42d Street, New York City, is sailing early in October for Paris where he may take up negotiations with the Latecoere Company.

The Pan American Airways, Incorporated, is a one hundred per cent American company; all its officers and all its capital are American and so are its equipment and pilots. For nearly a year now it has been operating between Key West and Habana carrying mails and passengers and is about to open operations from Miami. Some two or three months ago the Post Office Department awarded this company a ten year contract for the carrying of mails to the Canal Zone via Cuba, Mexico and Central America, and another ten year contract for the carrying of mails to Porto Rico via Cuba, Haiti and the Dominican Republic. The company is now working out in the countries it has to pass through the necessary formalities for the establishment of the service. Eventually, the company desires to extend its activities down the west coast of South America to Chile, thence across the Andes to Buenos Aires and perhaps from Porto Rico via Trinidad to Venezuela, and thence down the east coast of South America.

In any event, we consider of the utmost importance that American airlines should be established in this hemisphere and especially in the

Caribbean region. The French are already very active, as you know, in running a service from Paris to Dakar by airplane; thence to the Brazilian coast by steamer, and thence to Rio and Buenos Aires by airplane, and the German so-called Scadta Company⁷⁰ is very active in Colombia and the Germans are also active in Bolivia, Peru and Ecuador. Mr. Trippe will probably want to discuss matters with the Latecoere Company and try to make some arrangement with them and any assistance that the Embassy can render him will be most highly appreciated I assure you.

With kindest regards [etc.]

FRANCIS WHITE

810.79611 Pan American Airways, Inc./136: Telegram

The Secretary of State to the Vice Consul at Nassau (Points)

WASHINGTON, October 1, 1928—6 p. m.

Pan American Airways which has been awarded contract by Post Office Department for carrying mail from Key West to Panama Canal Zone and from Key West to Porto Rico is contemplating bidding for contract between Miami and Nassau. Mr. John A. Hambleton, Vice President of the Company, is in Nassau in connection with this matter. Please render him all proper assistance.

KELLOGG

810.79611 Pan American Airways, Inc./145

The Minister in the Dominican Republic (Young) to the Secretary of State

No. 1058

SANTO DOMINGO, October 15, 1928.

[Received October 23.]

SIR: Adverting to the Department's telegram No. 24 of September 10, 1928, regarding the Pan American Airways, Incorporated, I have the honor to report that representatives of this company, Messrs. Nagle and MacGregor, were here recently for a few days in the interests of this company. They were introduced by the Legation to President Vasquez and the Minister of Finance to whom they outlined the company's plans with respects to the establishment of a commercial air service between Miami, Florida, and San Juan, Porto Rico. The President and Minister de Moya stated that the establishment of the proposed service would be cordially welcomed by the Dominican Government which would gladly accord every possible facility and assistance.

⁷⁰ Sociedad Colombo-Alemana de Transportes Aereos.

It is understood that Mr. Nagle will return to Santo Domingo in the near future and will then endeavor to reach a formal agreement and undertaking with the Government.

The Legation was happy to accord to these gentlemen during their stay here every possible and proper assistance.

I have [etc.]

EVAN E. YOUNG

810.79611 Pan American Airways, Inc./166

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1324

PORT AU PRINCE, *November 26, 1928.*

[Received December 6.]

SIR: I have the honor to report that the officials of the Pan-American Airways, Inc., have recently been in Haiti and have taken up with me the question of obtaining a concession or contract with the Haitian government. There is attached hereto a copy of the contract first proposed by the Pan-American Airways, Inc. There is also attached a memorandum giving the views of the treaty officials on the proposed contract.⁷⁵

The Pan-American Airways, Inc., is in agreement except as to article 8, and it proposed a new article 8, copy attached.

A few days ago President Borno spoke to me on this subject and said that he believed that the Haitian government should assist this new industry in Haiti which he thought would be of material benefit to the country, and that, as a consequence, he was prepared to heartily endorse article 8 submitted by the company allowing exemption from taxes and payment of import duties on gasoline, oils, special tools, and spare parts. The representative of the Pan-American Airways, Inc., at Port au Prince informs me that other governments have already agreed to a clause similar to the proposed article 8, and while from a financial point of view the question is one of small moment, from a political point of view the rejection of this clause by Haiti would be serious, in as much as other countries have readily agreed to it and would be unable to understand how Haiti was to be excepted.

Dr. Millspaugh, the Financial Adviser-General Receiver is strongly opposed to the inclusion of this clause in the contract. I feel that in view of the fact that the work is pioneer work, that it will unquestionably be a decided benefit to Haiti and form one of those ties that I am trying to develop which will bind Haiti to the United States commercially in such manner as to assure the future stability of this country, that it would be perfectly proper to permit the

⁷⁵ Not printed.

desired exemption, particularly in view of the fact that President Borno, representing Haiti, is strongly in favor of it.

The representative of the Pan-American Airways, Inc., has just presented a new article, copy attached, which he desires incorporated in the proposed contract as article 16. This article is now being studied. At first glance I am not in particular sympathy with it, and do not believe that there would be much difficulty in having it eliminated, particularly if article 8, as proposed by the company was included in the contract.

It is requested that the Department inform me by telegraph its views regarding article 8 proposed by the company, in order that the representative of the Pan-American Airways, Inc., may take up this question with the Haitian government to the end that the contract may be consummated at an early date.

I have [etc.]

JOHN H. RUSSELL

[Enclosure 1—Extract]

Proposed Contract Between the Republic of Haiti and the Pan American Airways, Inc.

EIGHTH

In view of the fact that the Company asks no subsidy or subvention of any kind from the Government, and because of the value of the services the Company will render, the Government agrees that the Company shall be free from all taxes, federal and municipal, and that the present import and export duties on airships, gasoline, oils, and material and supplies of every kind used in the establishment or operation of its business shall not be increased. The Company shall have free use of the internal mails, telegraph, telephone, and radio systems, but only for matters relating to the Company's own business.

[Enclosure 2]

Draft Article 8 Proposed by the Pan American Airways, Inc.

ARTICLE 8. In consideration of the value to the Haitian Government of the services of the Company (Pan American Airways, Inc.,) will render, and to assist the Company in initiating and maintaining the most efficient service, the Haitian Government agrees that, for a period of Ten Years, the Company shall be exempted from all taxes, federal and municipal, and from the payment of all import duties on airplane Gasoline, Oils and Special Tools and Spare Parts to be used exclusively in the establishment and operation of its business.

[Enclosure 3]

Draft Article 16 Proposed by the Pan American Airways, Inc.

The Company agrees that it will carry under a scale of tariffs to be fixed by agreement between the Government and the Company, all Haitian air mail to Porto Rico, Santo Domingo, Cuba and the United States. The Government agrees that it will not deliver to any other person or company any Haitian air mail to the foregoing countries so long as the total amount of air mail does not exceed twenty-five percent. (25%) of the total first-class mail from Haiti to those countries. The Company shall have the right to arrange a revision of the air mail tariffs when improvements in the service or increase in the volume of the air mail make the revision of such tariffs advisable.

810.79611 Pan American Airways, Inc./167

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1327

PORT AU PRINCE, *November 28, 1928.*

[Received December 6.]

SIR: Referring to my Despatch No. 1324 of November 26th, 1928, I have the honor to inform the Department that this morning I had a conference with representatives of the Pan-American Airways, Inc., and it appears that they are very desirous of having Article 16 incorporated in the proposed contract.

The Financial Adviser-General Receiver is of the opinion that the second sentence of this Article would grant a monopoly of the most objectionable sort. He further feels that the Haitian Government should not obligate itself to send mails by the services of this Company before an agreement has been reached as to rates. He also believes that the third sentence is objectionable in that it might be construed as giving the Company the right to revise rates upward as well as downward and without the consent of the other party. He recommended that in place of this Article the following be substituted:—

“The Company agrees that it will carry, under tariffs to be fixed from time to time by agreement with the Government, the air mails delivered to the Company by the postal service of the Republic, subject to the limitation as to total weight fixed elsewhere in the present contract.”

The Pan-American Airways states that Article 16 is not in the nature of a monopoly but is preferential treatment due to the fact that the Company is performing pioneer work. It further states

that it is very desirous of having this Article as well as Article 8, incorporated in the contract with a view to assisting the Company in obtaining similar provisions in contracts with other countries. And that if these Articles were left out of the Haitian contract it would be very difficult to incorporate them in other contracts, also that they already exist, particularly in the contract with Nicaragua which contract met with the approval of the Department of State.

It would appear that Article 16 gives to the Company an unqualified monopoly and I am quite aware of the Department's attitude regarding monopolies. But I feel that the benefits accruing to Haiti from the contemplated services of this Company are such as to permit of the most liberal action on the part of the Haitian Government.

I would therefore suggest that the Department, while not approving of the monopolistic features of Article 16, not object to the giving of this Article as well as Article 8 in the proposed contract, if the Haitian Government so desires.

I have [etc.]

JOHN H. RUSSELL

810.79611 Pan American Airways, Inc./159 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, December 1, 1928—noon.

[Received December 1—9:10 a. m.]

267. Department's 168, July 6, 5 p. m.⁷⁶ Informal Foreign Office note just received states:

"All the necessary arrangements have been made in the departments concerned at this end; we understand that the position now is that the Government of British Honduras is negotiating directly with the corporation and we hope accordingly that no difficulty will arise."

HOUGHTON

810.79611 Pan American Airways, Inc./162 : Telegram

The Minister in Costa Rica (Davis) to the Secretary of State

SAN JOSÉ, December 4, 1928—9 a. m.

[Received 2:25 p. m.]

91. My 88, November 26, 2 p. m.⁷⁷ It now appears probable that railway to Limon cannot operate for at least six months.

⁷⁶ Not printed; it requested the Embassy to expedite reply to Department's telegram No. 161 of June 26, 3 p. m., p. 784.

⁷⁷ Not printed; it informed the Department that because of floods extending from San José to Limon, the railway between those points would probably not operate until March 1. (File No. 818.481/1.)

I believe situation offers the opportunity for Pan American Airways to establish itself in Costa Rica and Central America by arranging for service of one amphibian plane between San José and Limón. I believe Costa Rican Government would be receptive to such a proposal. Local representative of above-named company is taking matter up with his principals.

I hope Pan American Airways or the other American company will establish this service before the Scadta Corporation or other non-American interests become active. Should the service be established it will be necessary to act without delay.

DAVIS

810.79611 Pan American Airways, Inc./165 : Telegram

The Minister in Costa Rica (Davis) to the Secretary of State

SAN JOSÉ, December 6, 1928—11 a. m.

[Received 1:50 p. m.]

94. My 91, December 4, 9 a. m. There are indications that non-American interests are active.

If Pan American Airways desires to take advantage of this opportunity it must act immediately, instructing local representative by cable to negotiate for provisional service and advising him when plane will be available. Should plane be shipped it might be best to assemble it in the Canal Zone where mechanics and equipment are available. Negotiations here should be completed, however, before plane is shipped in order to avoid possible complications.

DAVIS

810.79611 Pan American Airways, Inc./169 : Telegram

The Secretary of State to the Minister in Ecuador (Bading)

WASHINGTON, December 8, 1928—10 a. m.

30. Pan American Airways, Incorporated, informs Department Mr. Harold R. Harris, General Manager Peruvian Airways Corporation will assist Mr. Otto Berg von Linde, representative of W. R. Grace and Company, to apply for operating concession in Ecuador similar to concession recently granted to Scadta.

Please render all possible and proper assistance. Department is much interested in the development by American interests of commercial aviation service between the United States and Latin America.

KELLOGG

810.79611 Pan American Airways, Inc./171 : Telegram

The Secretary of State to the Minister in Costa Rica (Davis)

WASHINGTON, December 8, 1928—7 p. m.

48. Your 91, December 4, 9 a. m., and 94, December 6, 11 a. m. The Pan American Airways is shipping a plane at once which will be assembled at the Canal Zone and should reach Costa Rica by the 25th of this month. You may in your discretion use this information to further the interests of the American company.

KELLOGG

810.79611 Pan American Airways, Inc./172 : Telegram

The Secretary of State to the Ambassador in Chile (Culbertson)

WASHINGTON, December 11, 1928—2 p. m.

89. The Department is informed that Pan American Airways, Inc. and W. R. Grace & Company are asking the Chilean Government for a concession for commercial air mail service from Arica south in the name of the Chilean Airways Corporation, an American company, and are submitting definite written proposition.

KELLOGG

810.79611 Pan American Airways, Inc./176 : Telegram

The Secretary of State to the Minister in Costa Rica (Davis)

WASHINGTON, December 12, 1928—noon.

50. Lieutenant Donald Duke has been granted leave in order to fly a plane from Colon to Port Limon for delivery there to the Pan American Airways. Please request the appropriate authorities for permission for flight over Costa Rican territory and landing at Port Limon.

KELLOGG

810.79611 Pan American Airways, Inc./177 : Telegram

The Secretary of State to the Minister in Costa Rica (Davis)

WASHINGTON, December 12, 1928—4 p. m.

51. Department's 48, December 8, 7 p. m. Please render all proper assistance to Mr. Frank Whiting, representing the Pan American Airways, Inc., in his negotiations for the establishment of the San Jose-Limon air mail service.

KELLOGG

810.79611 Pan American Airways, Inc./190

The Chargé in Honduras (Johnson) to the Secretary of State

No. 757

TEGUCIGALPA, December 14, 1928.

[Received December 27.]

SIR: I have the honor to report that Mr. John D. MacGregor representing Pan American Airways, Incorporated, returned early this week to Tegucigalpa and resumed immediately his negotiations for a contract with the Honduran Government. He has had interviews with President Paz, who appears to be entirely favorable to the proposal, and with the Minister of Fomento, who under direction of the President will celebrate any contract that may be agreed upon. Mr. MacGregor has informed me that so far he sees no reason to suppose he will encounter any serious difficulty in reaching an agreement with the Government.

After Mr. MacGregor had seen President Paz, I talked with him myself and referred to his previous conversations with Mr. Summerlin in regard to the proposals of Pan American Airways. The President reiterated the favorable opinions he had expressed to Mr. Summerlin and stated that he had instructed the Minister of Fomento to proceed without delay in the negotiations with Mr. MacGregor for a definite agreement.

The Legation will keep the Department informed promptly of any developments in this matter.

I have [etc.]

HERSCHEL V. JOHNSON

810.79611 Pan American Airways, Inc./183 : Telegram

The Minister in Costa Rica (Davis) to the Secretary of State

SAN JOSÉ, December 16, 1928—11 a. m.

[Received December 17—12:33 a. m.]

99. Department's 50, December 12, noon. Permission granted.

DAVIS

810.79611 Pan American Airways, Inc./184 : Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, December 17, 1928—7 p. m.

88. The Department approves of the suggestion in the last paragraph of your despatch 1327, November 28.

KELLOGG

810.79611 Pan American Airways, Inc./189 : Telegram

The Chargé in Honduras (Johnson) to the Secretary of State

TEGUCIGALPA, December 24, 1928—5 p. m.

[Received 9:45 p. m.]

147. MacGregor, representative Pan American Airways, informs me he signed today with Honduran Government a contract in terms substantially as proposed by the company.

JOHNSON

Huff-Daland Dusters and Keystone Airplane Corporation

810.796/3a : Telegram

*The Secretary of State to the Ambassador in Peru (Poindexter)*⁷⁸

[Paraphrase]

WASHINGTON, January 19, 1928—3 p. m.

4. Within a year certain American aeronautical interests are planning, with the encouragement and approval of the Government of the United States, to interest themselves in the transportation of passengers and mail along the western coast of South America. For the success of their endeavors, it is important that the Government of Peru grant no exclusive concessions to foreign aeronautical interests to operate in Peru, and it is highly desirable that the Government of Peru grant no concessions at all to foreign interests for air transport in Peru until the American companies above mentioned have had the opportunity to develop their projects, inasmuch as any concessions to operate air lines in Peru might serve in effect to prevent American companies from establishing a coastal air line. As you know, the Government of the United States has always felt very strongly that the policy of the "open door" in such matters is best calculated to benefit all concerned.

If, in your opinion it is timely to do so, discuss this matter confidentially and informally with the President of Peru, and intimate to him that the Government of the United States would be pleased to see American aeronautical interests and Peru eventually joined in the development of aviation on the west coast of South America, and that the Government of the United States would appreciate it if the field would be kept open pending maturing and presentation of these projects. The American interests contemplate some form of operation which as now planned would associate the Naval Air Service of Peru in the work.

⁷⁸ The same, *mutatis mutandis*, on the same date to the Minister in Ecuador as telegram No. 3.

A bill to authorize the Government of the United States to give financial assistance to air lines to Central and South America is now pending in Congress.

KELLOGG

810.796/4 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, January 21, 1928—1 p. m.

[Received 6:30 p. m.]

4. Your 4, January 19, 3 p. m. not clear; have cabled for corrections. Please advise if the phrase "foreign interests" is intended to cover all foreign interests in Peru or only non-American interests. Also the phrase "American companies above mentioned," none appear to be mentioned in your cable. It would be an aid in presenting the matter if the companies referred to were known.

Some days ago I presented to President Leguia Mr. Woolman, representing an American company, Huff-Daland Dusters. This company already has large aviation contracts in Peru. Woolman also represents the Keystone Aircraft Corporation. This last company made the planes now in use in the recently established air line between Lima and Iquitos. Woolman proposed to the President to establish air mail service between Lima and Panama. The President agreed to entertain the proposition. Since then the President agreed to place the matter in the hands of Grow, former American naval officer, now in charge of Peruvian naval aviation. Grow established the Lima-Iquitos service and now proposes to give the contract for Lima-Panama service [to?] Woolman's principals.

Please advise if your cable is intended to oppose the Woolman proposition. German interests are on the ground and working in various disguises for this concession.

POINDEXTER

810.796/4 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, January 25, 1928—7 p. m.

6. Your 4, January 21, 1 p. m.

1. The phrase "foreign interests" is intended to cover all interests in Peru not American or Peruvian.

2. The American interests referred to in the Department's 4, January 19, 3 p. m., are the Keystone and Huff-Daland Dusters, who are connected with Hayden Stone (Financial) and Pan American Airways, and possibly eventually others.

3. Give all possible and proper support to Woolman.

KELLOGG

810.796/6

The Minister in Ecuador (Bading) to the Secretary of State

No. 1042

QUITO, *February 8, 1928.*

[Received March 10.]

SIR: With reference to the Department's cable No. 3 of January 19th, three P. M.,⁷⁹ in which the Legation was informed that "certain American aeronautical interests are planning with the encouragement and approval of the Government of the United States to interest themselves in the transportation of passengers and mail along the western coast of South America", and in which the Minister was instructed to discuss this question with Doctor Ayora, Provisional President of Ecuador, in a confidential manner, intimating to him that the government of the United States would be pleased to see Ecuador and the aeronautical interests of the United States eventually joined in the development of aviation on the west coast of South America, and for that reason the United States Government would be happy to see the field kept open until these projects have been matured and completed, I have the honor to report that I have discussed this question in detail with Doctor Ayora, who informed me that he was exceedingly interested in the matter and gave me the assurance that the Government of Ecuador would cooperate to the fullest extent with plans to develop such air service. He further informed the American Minister that up to the present time no requests of any kind to grant concessions for air rights in Ecuador had been presented by foreign concerns, and that he did not believe any such requests would be presented in the near future. The Minister requested that Doctor Ayora, in case any requests for air concessions were presented to the Government of Ecuador, discuss them with the American Minister prior to the Government's taking any action, to which Doctor Ayora agreed.

I have [etc.]

G. A. BADING

810.796/12

The Chargé in Peru (Hanna) to the Secretary of State

[Extracts]

No. 932

LIMA, *April 16, 1928.*

[Received May 2.]

SIR: I have the honor to refer to the Department's telegraphic instructions Nos. 4 of January 19, 3 p. m. and 6 of January 25, 7 p. m., regarding the desire of the Huff Daland Dusters and the Keystone

⁷⁹ See footnote 78, p. 800.

Airplane Corporation to obtain concessions from Peru and other West Coast countries for the operation of an airplane line along the West Coast to Panama.

Mr. Woolman, the representative of the companies above mentioned, has been here since the first of the year submitting a draft of a concession to the Peruvian Government and attempting to obtain its approval. As soon as Mr. Woolman's concession was submitted to the Government, German interests, notably the Dornier Wal Company through its agent, Mr. Beeck, submitted a proposal for the carrying of air mail and passengers from Mollendo to Paita and asking in addition for authority for a line from Sechura or Paita to Iquitos. This proposal originally contemplated an annual subsidy by the Government amounting to Lp. 30,000. for two years, eventually to be reimbursed from the earnings of the line. A local company was to be organized, and some of the stock was to be subscribed by the Government. A careful study of the prospects of this company was presented, showing a prospect for yearly dividends of 8% or 9% on the basis of the carrying of 1,200 passengers a year along the coast and 512 to Iquitos. The latter figure, at least, is optimistic for the time being. 6 Merkur-Wals are proposed as the coastal equipment and 6 Dorniers as the equipment on the Iquitos line. The terms of the project of Mr. Woolman were apparently communicated to the Dornier agent by General Faupel, and the Dornier agent has since submitted a project which is understood to be considerably more favorable to the Government than his original project. The German proposal has the support of General Faupel and the other officers of the Military Mission of Germans at present directing the staff operations of the Peruvian Army.

As has been outlined in the Embassy's despatch No. 854, dated November 1, 1927,⁸⁰ the object of the German aeronautical interest obviously is to link up with their present air lines operating in Bolivia and Colombia, possibly as part eventually of a system dominated by the European Air companies extending from Panama or Northern Colombia down the West Coast to Ecuador, Peru and Chile and also across Northern Peru to Iquitos, Para and Pernambuco, across from Valparaiso and Santiago, Chile to Buenos Aires, north from Buenos Aires to Rio de Janeiro and Pernambuco and across the South Atlantic to Dakar, Spain, France, Germany and England. It may be noted that according to the press the French-controlled air mail line from Santiago to Paris is already in operation as are the Bolivian and Colombian German-controlled lines. It is reported that a company under French influence is also applying for a concession in Chile to carry the mail and passengers from Santiago to Arica.

⁸⁰ Not printed.

Mr. Woolman's activities in addition to being hampered by the opposition of the German officers has met with the opposition of an American, Mr. Fawcett, who has done very creditable flying in Peru for the past eight years. Until recently Mr. Fawcett flew a Curtiss Oreole plane, but that was put out of commission a short time ago by an accident and he is now contemplating the possibility of buying several planes and operating a local line in Peru from Lima to Païta. He feels that Mr. Woolman's project would prejudice his interests and accordingly went to the President in January to protest against it.

A strong supporter of the Keystone Company's efforts has been Captain Grow, formerly of the United States Navy, who is now Inspector General of Aviation for Peru, and directs the Army Air Service as well as the Naval Air Service besides having supervision over commercial and civilian flying. This enlargement of his previous authority as head of the Naval Air Service was effected about two weeks ago by Presidential decree and is of considerable significance in the interest of the United States in that it removes a German officer from control of the Army Air Service and replaces him by an American. . . .

The matter is now in the hands of the Minister of Gobierno, Sr. Rubio, who is friendly to the United States. Both President Leguia and Sr. Rubio seem anxious to grant this concession (which, in its latest draft, is in the form of a contract) to Mr. Woolman's company provided the project can be considered as being as favorable as the German proposal. Sr. Rubio yesterday expressed himself as satisfied with the terms of the contract and stated that he would present it to the President for signature today. . . .

It was not until a day or so ago that Mr. Woolman furnished the Embassy with a copy of his proposed contract and I have not yet had an opportunity to translate it or to study it carefully. Moreover, it does not contain the latest modifications made to it to meet the objections of the Peruvian authorities. The Embassy has been following his negotiations closely and giving him all appropriate assistance, and will continue to do so. Captain Grow's exceptionally favorable relations with Peruvian officials concerned in the matter, including President Leguia, have made him very useful and his cooperation has been effective.

I have [etc.]

MATTHEW E. HANNA

810.796/10 : Telegram

The Chargé in Peru (Hanna) to the Secretary of State

LIMA, April 19, 1928—6 p. m.

[Received April 21—11 p. m.]

29. Department's telegram 6, January 25, 7 p. m. President Leguia assures me that the persistent reports that the Peruvian Government has signed contract with German aeronautical interests to operate in Peru are not true and says that the present intention is to enter into contracts with both American and German interests and let them compete. . . .

Detailed report concerning Woolman's negotiations are contained in despatch mailed April 18th.⁸¹

HANNA

Proposed Air Mail Service Between the United States and Chile

825.796/17 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, April 13, 1928—7 p. m.

27. The Department has been informed that the Compagnie Latécoère⁸² has requested the Government of Chile to grant it an air monopoly service from east to west between Chile and Brazil.

The United States Government, through the Post Office Department, contemplates launching a project for supplying an air mail service directly from this country to the southernmost populous city of Chile. Persons who are interested in performing such a service have been conferred with. The Bureau of the Budget will transmit to Congress a request for an appropriation of \$2,000,000 to be used by the Post Office Department for the purpose described above.

These plans would be very seriously interfered with if Chile were to grant such an exclusive right to any company, wherever domiciled, because the United States Post Office Department contemplates the delivery of the mails transmitted to Chile by American airships to the east coast of South America by means of other air companies yet to be consulted. American interests might be prevented from establishing these lines if any exclusive concessions to operate air lines in Chile were granted. As you know the United States has always felt very strongly that an "open door" policy in such matters is best calculated to benefit all concerned.

⁸¹ Presumably despatch No. 932, Apr. 16, *supra*.

⁸² Compañía General de Empresas Aeronauticas, Líneas Latécoère.

Discuss this matter with President Ibanez immediately, informally and confidentially, and intimate that the Government of the United States would be pleased to see Chilean and American aeronautical interests eventually joined in the development of aviation, and that this Government would appreciate it if the field were kept open pending the presentation and maturing of these projects.

KELLOGG

825.796/19: Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, April 19, 1928—11 a. m.

[Received April 20—10:13 p. m.]

54. President of Chile was much gratified by the information contained in your telegram No. 27, April 13, 7 p. m. He says that the nationalistic policy of the Government will cause it to grant no more exclusive concessions, that the concessions now held by Testart will be canceled, and that all his proposals for service between Santiago, Valparaiso, and the north will be refused.

The President did not think that the existing Latécoère contract was exclusive, but the Director General of Posts has supplied me with copies of the two contracts with the Government of Chile, one for carrying its mails between Chile and Argentina, and one for mails to Uruguay, Brazil, Africa and Europe. The first contract provides that until this company is given 35 percent of the correspondence destined to Argentina, the Chilean Postal Administration cannot concede to other companies the air transport of mails for Argentina. Similar stipulations in the contract for service between Chile, Uruguay, Brazil, Africa and Europe state "35 percent of the total for these countries." The last-mentioned contract runs for a period of 18 months from February 1, 1928, and is renewable for successive equal periods, if not denounced 6 months prior to expiration. The contract for service between Chile and Argentina becomes effective 18 months after February 1, 1928, and runs for a period of 18 months thereafter, unless denounced 6 months prior to expiration. If within the first 18 month period of the contract the company maintains service of one round trip weekly, the contract will continue in effect for 10 years.

The Director General believes that the contract does not affect the mail transit for Argentina and other countries brought from the United States or countries north of Chile and not originally deposited in the Chilean Government offices, but such an interpretation is very doubtful. The contracts contain clauses authorizing cancelation for interruptions and undue delays, but the provisions seem to be liberal

for the company. I am sending full text of contracts by mail.⁸³ The Government of Chile is considering the establishment of its own air mail service between Arica and Valdivia and it probably would not favor the proposed American service unless Chilean pilots were to be used within Chilean territory as soon as a competent force could be assembled. Arrangements would be facilitated if such assurances could be given to the Government of Chile. So far the Latécoère Company has failed utterly to maintain its schedules between the city of Buenos Aires and Europe. The Director General of Posts says that Chile will endeavor to annul the contract if improvement is not made within a few months, but it is my opinion that the contract restrictions will make this difficult.

COLLIER

825.796/24

The Ambassador in Chile (Collier) to the Secretary of State

No. 1410

SANTIAGO, June 7, 1928.

[Received July 5.]

SIR: I have the honor to state that on June 1st I accompanied the Minister of Foreign Affairs and the then acting Minister of the Interior, Señor Osvaldo Koch (Minister of Justice), and the Director General of Posts (Señor Brieba), in the car of the President of the Republic, to Valparaiso to attend the ceremonies arranged by the Grace Line to celebrate the arrival, for the first time in that port, of their new motor ship, the *Santa Maria*.

I had an opportunity to talk with the Director General of Posts with regard to the possibility of the establishment of an air mail service between the United States and Chile. The Department will recall my despatches, sent some two months ago,⁸⁴ with regard to other conversations with him concerning this matter and particularly as to the French Latécoère Company's contract for the air mail service between Chile, Argentina, Uruguay, Brazil, Africa and Europe.

The Director General also said that he had been giving much thought to air mail service in Chile and that he believed that the principle of "cabotage" or coastwise trade ought to be applied to air ships as well as to ocean going ships; namely, that the transport of mail, passengers and packages from one Chilean town to another by air ought to be reserved to Chilean air ships, and that foreign air ships should be allowed to carry on trade only between Chilean towns and foreign towns. I expressed the opinion that this rather novel suggestion would militate against the establishment of air service;

⁸³ Not printed.

⁸⁴ Despatches not printed; see Ambassador's telegram No. 54, *supra*.

that at the present time every incentive should be given to the establishment of such services rather than restrictions imposed which would prevent or retard their establishment and development.

In the conversation which I had with the Minister of Foreign Affairs at his weekly reception on June 6, 1928, I brought up the matter and reiterated these views and expressed the hope that Chile would not adopt a policy which would in any way impede the establishment and maintenance of an air mail service between the United States and Chile or impair the service.

I have [etc.]

WM. MILLER COLLIER

825.796/25 : Telegram

The Ambassador in Chile (Culbertson) to the Secretary of State

SANTIAGO, October 8, 1928—11 a. m.

[Received 12:46 p. m.]

112. Department's 27, April 14 [13], 7 p. m.; Embassy's despatch No. 1354, April 20.⁸⁵ Any pertinent information which the Department can give Embassy regarding contemplated projects Peru to Santiago section air mail route New York to Chile would facilitate latter's obtaining from the Government more precise indication as to the extent of Chilean Government's cooperation and facilities.

CULBERTSON

825.796/25

The Secretary of State to the Pan American Airways, Inc.

WASHINGTON, October 13, 1928.

SIRS: With reference to your project for supplying air mail service from the United States to the southernmost part of Chile, concerning which the Department informed the American Embassy at Santiago some time ago, I have to inform you that the American Ambassador to Chile has now telegraphed that he would be pleased to receive any pertinent information regarding the Chilean section of the proposed air mail service which would facilitate his obtaining from the Chilean Government more precise indication as to the extent of that Government's probable cooperation and facilities.

In order that the Department may reply by telegraph to the Ambassador, I shall be pleased to receive any information you can give me regarding the latest developments with regard to this project.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

Assistant Secretary

⁸⁵ Latter not printed.

825.796/27

*The Pan American Airways, Inc., to the Assistant Secretary of State
(White)*

NEW YORK, *October 16, 1928.*

[Received October 18.]

SIR: Reply to yours of October 13th has been delayed owing to my absence.

The President of this Company, Mr. J. T. Trippe, is now in Europe and nothing will be done toward formulating definite plans for extending the operations of the Peruvian Airways Corporation beyond Peru, until his return.

The Peruvian Airways Corporation, which is jointly owned by W. R. Grace & Co. and Pan American Airways, Inc., is now operating a service between Callao and Talara, Peru, and it is hoped that this operation can develop sufficient data to justify its expansion and extension within a reasonably short time. It will be several months yet, however, before we could undertake negotiations with the Chilean Government, unless it is felt by the State Department to be of vital importance to begin these negotiations soon.

Respectfully yours,

PAN AMERICAN AIRWAYS, INC.
JOHN A. HAMBLETON, *Vice President*

825.796/27

The Acting Secretary of State to the Pan American Airways, Inc.

WASHINGTON, *October 19, 1928.*

SIRS: The Department has received your letter of October 16 answering its communication of October 13 and notes that it will be several months before you can undertake negotiations with the Chilean Government looking to the extension of your service beyond Peru unless it is felt by the State Department to be of vital importance to begin these negotiations sooner. In reply the Department desires to inform you that from information which it has received from the Embassy at Santiago as reported to you in the Department's letter of October 13 it would appear that the possibility of your reaching a satisfactory agreement with the Chilean Government may be seriously jeopardized through any considerable delay on your part in undertaking negotiations and the Department does feel that it is of great importance that these negotiations be undertaken at an early date, or at least that the

Chilean Government be given some assurance that an extension of your operations to Chile is seriously contemplated in the near future.

I am [etc.]

For the Acting Secretary of State:

FRANCIS WHITE

Assistant Secretary

825.796/29

*The Pan American Airways, Inc., to the Assistant Secretary of State
(White)*

NEW YORK, *October 24, 1928.*

[Received October 25.]

DEAR SIR: In reply to yours of October 19th, I beg to advise that this Company now has under consideration plans for undertaking negotiations with the Chilean Government within the reasonably near future.

It must be realized by the Department that the commencement of air transport operations by this Company in the Republic of Chile is entirely dependent upon possible revenues obtainable. Any concession negotiated at the present time must assure the Company a reasonable return on its capital investment, and operations under such concession must necessarily be contingent upon the award of a United States mail contract at a rate sufficient to justify a through international service to Valparaiso. The question of just what this return must be for such an extended service, we are at this moment not prepared to say.

You may rest assured, however, that an extension of our operations to Chile is seriously contemplated provided a satisfactory arrangement can be made with the Chilean Government and provided, further, that an advantageous contract can be secured for the transportation of United States mail.

Respectfully,

PAN AMERICAN AIRWAYS, INC.

By JOHN A. HAMBLETON, *Vice President*

825.796/28 : Telegram

The Secretary of State to the Ambassador in Chile (Culbertson)

WASHINGTON, *October 27, 1928—noon.*

72. Reference your No. 112 of October 8, 11 A. M. Pan American Airways Incorporated informs Department that it now has under consideration plans for undertaking negotiations with Chilean Government within reasonably near future. Department will inform you immediately Company's definite plans are available.

KELLOGG

Department of Commerce Flight—Demonstrations by Curtiss Company and Consolidated Aircraft Corporation

820.7961 Dept. of Commerce Flight/3: Telegram

*The Secretary of State to the Ambassador in Argentina (Bliss)*⁸⁵

WASHINGTON, January 7, 1928—8 p. m.

1. The Department of Commerce states that arrangements have been made to send two American built airplanes, one a Curtiss-Hawk equipped with pontoons and the other a Curtiss-Falcon, to South America on an experimental and path finding flight. These planes will be under the supervision of Mr. James D. Summers, Aeronautical Trade Commissioner of the Department of Commerce for Latin America, and in direct charge of Mr. C. W. Webster. In the party will also be Lieutenant James Doolittle, an Army pilot on leave, William H. McMullen, a civilian pilot, and Mr. J. A. Todhunter, a mechanic.

Please request permission for flight in Argentina. The expedition plans also to visit Peru, Chile, Bolivia, Uruguay and Brazil.

KELLOGG

820.7961 Dept. of Commerce Flight/7: Telegram

*The Secretary of State to the Chargé in Brazil (Schoenfeld)*⁸⁷

WASHINGTON, January 7, 1928—8 p. m.

2. The Department of Commerce states that arrangements have been made to send two American built airplanes, one a Curtiss-Hawk equipped with pontoons and the other a Curtiss-Falcon, to South America on an experimental and path finding flight. These planes will be under the supervision of Mr. James D. Summers, Aeronautical Trade Commissioner of the Department of Commerce for Latin America, and in direct charge of Mr. C. W. Webster. In the party will also be Lieutenant James Doolittle, an Army pilot on leave, William H. McMullen, a civilian pilot, and Mr. J. A. Todhunter, a mechanic.

Please request free entry for equipment and permission for flight in Brazil. Name of steamer and date of arrival will be cabled later. The expedition plans also to visit Bolivia, Chile, Argentina, Uruguay and Peru.

KELLOGG

⁸⁶ The same, *mutatis mutandis*, on the same date to the missions in Bolivia (No. 1), Chile (No. 3), and Uruguay (No. 1).

⁸⁷ The same, *mutatis mutandis*, on the same date to the Ambassador in Peru as telegram No. 1.

820.7961 Dept. of Commerce Flight/9 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, January 17, 1928—4 p. m.

[Received 7:35 p. m.]

1. Your cable number 1, January 7, 5 [8] p. m.⁸⁹ Peruvian Government authorizes with great pleasure flight over Peruvian soil, free entry of planes, equipment and supplies, and will give full and complete friendly reception to the expedition, aiding in every way possible the success of the purposes which it has in view.

POINDEXTER

820.7961 Dept. of Commerce Flight/11 : Telegram

The Acting Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, January 18, 1928—5 p. m.

3. Your 1, January 17, 4 p. m. Expedition sailing January 19 steamer *Santa Luisa*.

OLDS

820.7961 Dept. of Commerce Flight/13 : Telegram

The Secretary of State to the Minister in Bolivia (Cottrell)

WASHINGTON, January 20, 1928—5 p. m.

2. Department's No. 1, January 7.⁹⁰ Department of Commerce states that Duke Banks is local representative of the Curtiss Airplane and Motor Corporation and desires Legation and Consulate to cooperate with him in promoting interest in American aircraft products and aeronautics in Bolivia. Please comply and inform Consulate.

KELLOGG

820.7961 Dept. of Commerce Flight/14 : Telegram

The Ambassador in Argentina (Bliss) to the Secretary of State

BUENOS AIRES, January 25, 1928—11 a. m.

[Received 11:35 a. m.]

7. Your telegram number 1, January 7, 8 p. m. Permission accorded.

BLISS

⁸⁹ See telegram No. 2 to the Ambassador in Brazil, *supra*.

⁹⁰ See footnote 86, p. 811.

820.7961 Dept. of Commerce Flight/16 : Telegram

The Minister in Uruguay (Grant-Smith) to the Secretary of State

MONTEVIDEO, February 2, 1928—noon.

[Received February 2—11:10 a. m.]

7. Your telegram No. 1 of January 7, 8 p. m.⁹¹ The Uruguayan Government has granted permission flight to visit Uruguay and to pass over its territories.

It is suggested that the use of the word "pathfinding" might give rise to misunderstanding.

GRANT-SMITH

820.7961 Dept. of Commerce Flight/18 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, February 8, 1928—2 p. m.

[Received 3:45 p. m.]

28. Department's telegram 3, January 7, 8 p. m.⁹¹ Permission granted.

COLLIER

820.7961 Dept. of Commerce Flight/20 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, April 11, 1928—2 p. m.

[Received 8:30 p. m.]

50. Lieutenants Doolittle and Wade,⁹² and other American airplane representatives here are of the opinion that their difficulties in obtaining orders are due to a belief of the Government of Chile that in case Chile becomes involved in war the United States will prevent subsequent deliveries either because of sympathy for Bolivia and Peru or because of its determination to permit no war in South America, especially if related to the Tacna-Arica dispute,⁹³ or because the

⁹¹ See footnote 86, p. 811.

⁹² Lt. Leigh Wade, representative of the Consolidated Aircraft Corporation of Buffalo, N. Y., who, with J. W. Mussen of the same company, sailed in January 1928, to Peru to demonstrate their company's products in that and other South American countries.

In instructions to the American missions in Chile, Feb. 29, 1928, and in Argentina, Uruguay and Brazil, Mar. 1, 1928, the American representatives were directed to accord appropriate assistance and to request free entry and clearance for the Consolidated airplane. In telegram No. 15, Feb. 29, 1928, the American representative in Peru was instructed to obtain a refund of the customs charges paid when the Consolidated airplane entered Peru. (File No. 811.79620 Consolidated Aircraft Corp.)

⁹³ See pp. 650 ff.

United States may rule that airplanes are in the same category as armed ships and may not be outfitted in the territory of neutrals. . . . Has the Department any suggestions to meet the situation? Chilean agents of certain American arms manufacturers also feel that the first two reasons cause the Government of Chile to hesitate giving contracts to them.

COLLIER

829.7961 Dept. of Commerce Flight/22 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, April 16, 1928—4 p. m.

28. Your telegram No. 50, April 11, 2 p. m. The Department prefers that you avoid any discussion of this subject because it does not desire to indicate even indirectly what this Government's policy might be in case of eventualities to which you allude. This should not prevent you, however, from rendering assistance to the representatives of American companies to obtain a fair consideration of their propositions.

KELLOGG

829.7961 Dept. of Commerce Flight/23

The Ambassador in Chile (Collier) to the Secretary of State

No. 1367

SANTIAGO, May 1, 1928.

[Received May 23.]

SIR: I have the honor to refer to the Department's cablegram No. 28 of April 16, 4 p. m., answering my cablegram No. 50 of April 11, 2 p. m., in which I referred to certain impressions which the local representatives of the Curtiss Airplane Company and certain local agents of American munition firms had as to causes operating against their securing contracts with the Government of Chile, and as to the source of certain insinuations which they felt underlay these causes. The Department's reply is so phrased that I fear that it was of the opinion that I had discussed the matter with the Chilean authorities. This had never been done by me and the only participation that I had in the conversations with these American representatives and agents as [*was?*] to listen to what they had to say. I did not even tell them that I was about to report to the Department what they had told me in order to give it an opportunity to give me any necessary instructions.

I have made most vigorous efforts with both the Minister of Foreign Affairs and the President of the Republic to get them to give these American firms a part of the contracts for airplanes which are about to be let. Always these officials have admitted the superiority of the

Curtiss planes, but have alleged that price stood in the way of letting the contract to them. The Curtiss Company denies that there is an appreciable difference in the price; at least, that the difference bears any proper relation to the great superiority which they have demonstrated that their planes possess.

In a recent conversation with President Ibáñez, he surprised me by telling me that he did not favor the purchase of military planes, but wished to get very many cheap planes which could be put into commercial services that could be inaugurated and that could afford an opportunity for the Chilean military aviators to practice. The President was most explicit in this statement, but what he said is so different from repeated declarations and undoubted intentions of the military authorities, that the only reconciliation of the two statements is that the President would prefer the purchase of cheap civilian planes and the training of military aviators in them, but that his military advisers wish military planes. It is probable that the President will defer to the judgment of the latter and even if some cheap commercial planes are bought, a large number of military planes will undoubtedly be acquired. I am told by the Curtiss people that they have fairly reliable information that the Army desires to purchase not merely 18 military planes as has been announced, but 36.

While in my talks, with these officials, I have not in any way mentioned the probable attitude of the United States with regard to the permission or the prohibition to fulfill contracts for airplanes and munitions in case war should break out, the President in his recent talk with me did say that a certain element in the Army entertained this view, and he even intimated that the idea had been inspired by competitors.

With specific reference to munitions, the President said that the Colt Arms Company, through their agent, was trying to make sales to Chile and that he (the President) personally always had favored purchasing from American manufacturers but the majority of the Army officers charged with the study and purchase of this equipment, favored making the purchases in Europe.

I have [etc.]

WM. MILLER COLLIER

820.7961 Dept. of Commerce Flight/25

The Chargé in Uruguay (Gade) to the Secretary of State

No. 642

MONTEVIDEO, June 8, 1928.

[Received July 6.]

SIR: Reference is made to the Department's instructions Nos. 1 of January 7, 8 p. m., 1928 (telegraphic)⁹⁴ and 125 of March 1,

⁹⁴ See footnote 86, p. 811.

1928,⁹⁵ regarding the expeditions of the aviators Lieutenant J. H. Doolittle and Lieutenant Leigh Wade, respectively.

In this connection I have the honor to report that Lieutenants Doolittle and Wade arrived in Montevideo by airplane on the morning of June 6th and were met at the Military Aviation School by the Commercial Attaché and myself. In the afternoon Lieut. Doolittle demonstrated a Curtiss Hawk Pursuit Plane, and Lieut. Wade a Consolidated Aircraft Company Training Airplane before the Minister of War and Marine, the Chief of the Military Aviation Corps, and various naval and military aviators. The demonstration was highly successful and the military authorities expressed their admiration for the qualities of the machines and the skill displayed by the pilots.

Lieutenant Doolittle expects to return in the near future with his airplane equipped with pontoons, and Lieut. Wade plans to pass through Montevideo en route to Rio de Janeiro.

I have [etc.]

GERHARD GADE

820.7961 Dept. of Commerce Flight/24

The Ambassador in Cuba (Judah) to the Secretary of State

No. 325

HABANA, June 26, 1928.

[Received July 5.]

SIR: I have the honor to quote below the text of a telegram dated June 25, five p. m., 1928 today received from the American Ambassador at Buenos Aires:

"Lieutenant James Doolittle, who has been visiting various South American countries for the purpose of demonstrating Curtiss aeroplanes and regarding whom you may have received instructions from the Department, asks me to inform you that he proposes to leave here about July 22 in a Curtiss Hawk aeroplane on a flight from Buenos Aires to New York. As he plans to stop at Cienfuegos for fuel enroute from Colon to New York he requests you to obtain permission from the Cuban Government to land and fly in Cuba and also customs courtesies."

The Embassy, not having received any previous information concerning the flight of Lieutenant Doolittle, I respectfully request instructions whether I should ask the Cuban Government to accord permission for the aviator to land in this Republic and to extend special customs courtesies to him.

I have [etc.]

NOBLE BRANDON JUDAH

⁹⁵ See footnote 92, p. 813.

820.7961 Dept. of Commerce Flight/26

The Secretary of State to the Chargé in Cuba (Williamson)

No. 191

WASHINGTON, July 12, 1928.

SIR: Reference is made to despatch No. 325, dated June 26, 1928, from the Embassy at Habana, transcribing a telegram received by it from the Embassy at Buenos Aires with respect to a flight from Buenos Aires to New York contemplated by Lieutenant James Doolittle, in which it is stated that Lieutenant Doolittle plans to stop at Cienfuegos for fuel and requests that permission be obtained from the Cuban Government to land and fly in Cuba and that customs courtesies be accorded him. In the absence of previous information concerning the flight of Lieutenant Doolittle, the Embassy requested to be instructed whether it should ask the Cuban Government to grant the facilities mentioned.

In reply you are informed that, under arrangements made by the Department of Commerce, two American built airplanes recently were sent to South America on an experimental flight under the supervision of Mr. James D. Summers, Aeronautical Trade Commissioner of the Department of Commerce for Latin America, and that Lieutenant Doolittle was a member of the party. In connection with this flight the Department addressed instructions to certain missions in Latin America directing them to request free entry for the equipment and permission for the flight in the territory of the countries to which they were respectfully accredited.

In view of the foregoing, you are authorized to inform the appropriate authorities of Lieutenant Doolittle's proposed stop at Cienfuegos and to request free entry for such equipment as he may carry and permission for his flight in Cuba.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

820.7961 Dept. of Commerce Flight/27

The Ambassador in Brazil (Morgan) to the Secretary of State

No. 3037

RIO DE JANEIRO, July 17, 1928.

[Received August 2.]

SIR: Replying to the Department's telegraphic instruction No. 2, of January 7 last, 8 P. M., I have the honor to report that Lieutenant James Doolittle, an Army pilot on leave, arrived at Rio de Janeiro by airplane from Asuncion, Paraguay (distance 965 miles and flying time 7 hours) on July 2 last, and has received what assistance this office has been able to render him in making known

the Curtiss Hawk single-seat pursuit plane which he employs and the manufacturer of which he represents. Our Naval and Military attachés have introduced him to officers of the Brazilian army and navy.

Lieut. Doolittle contributed an exhibition of sensational "aerial stunts" never before seen in this city to the 4th of July program with which the American colony commemorated our national birthday. He repeated this exhibition on July 14, at the military aviation field, before a large number of spectators, among whom were the members of the French Military Mission, which organized "an afternoon of aviation" to commemorate the French national holiday.

Lieutenant Doolittle and Mr. Webster, the business manager of the Curtiss Company, have been on excellent terms with Lieutenant Wade, representing the Consolidated Aircraft Corporation, of Buffalo, New York, who is also in Rio de Janeiro engaged in attempting to dispose of airplanes of the said company.

In reporting the activities of Messrs. Doolittle and Wade the Military Attaché, under date of July 9, makes the following observations regarding the relations of these representatives of competing aeroplane manufacturers:

"A particularly pleasing feature of the local situation and one bound to impress the Brazilians strongly is the cordiality manifested by the competing representatives of American concerns. . . . and the fact that the Americans, each out for orders, are able to co-operate and assist each other in many details of their local arrangements is a valuable object lesson to their prospective customers."

I have [etc.]

EDWIN V. MORGAN

Boeing Airplane Company and Pratt and Whitney Motor Corporation

811.79620 Boeing Airplane Co./1

The Assistant Secretary of Commerce (MacCracken) to the Assistant Secretary of State (White)

WASHINGTON, February 4, 1928.

MY DEAR MR. SECRETARY: Mr. Ralph A. O'Neill of the Boeing Airplane Company, Seattle, Washington plans to sail on the Steamship *Southern Cross* February 11 for Rio de Janeiro, Brazil. He also represents the Pratt and Whitney Motor Corp. of Hartford, Connecticut. He is taking with him a Boeing pursuit plane and a Boeing mail plane. At the end of six months, there will be shipped to him a Boeing flying boat which is now in the process of construction. Mr. O'Neill plans to give demonstration flights of these ships for the army and navy air services of the various countries which he visits. He is taking with him the necessary personnel and subsidiary equipment.

Mr. O'Neill's contemplated route is as follows: Rio de Janeiro, Brazil to Buenos Aires, Argentina; Buenos Aires, Argentina to Montevideo, Uruguay; Montevideo, Uruguay to Buenos Aires, Argentina; Buenos Aires, Argentina to Santiago, Chile; Santiago, Chile, to La Paz, Bolivia; La Paz, Bolivia to Lima, Peru; Lima, Peru to Guayaquil, Ecuador; Guayaquil, Ecuador to Bogota, Colombia; Bogota, Colombia to Caracas, Venezuela; Caracas, Venezuela to Panama City, Panama. This is a contemplated itinerary only and may be subject to change depending upon local conditions. At the end of six or eight months, Mr. O'Neill plans to be in Panama to assemble the flying boat, which will be shipped to him and to reverse his route around South America, ending in Rio de Janeiro, Brazil.

Will you kindly communicate the necessary information to the governments concerned through the American Embassies and Legations and obtain the necessary permission for this expedition to visit and fly in these countries. Also, if possible, please obtain permission for the equipment of the expedition to be entered and shipped out of the various countries free of customs charges. It is suggested that Brazil, the Argentine, and Uruguay might be communicated with by cable and the remaining countries by letter. It would be advisable to have a reply from Brazil before the expedition sails. It might also be useful to suggest that the American diplomatic missions in each place render all possible assistance to the expedition, especially with regard to communicating with the American diplomatic mission in the next contemplated stop and obtaining necessary permits, visas, etc.

The Department of Commerce is notifying its representatives in the cities named of the itinerary and plans of this expedition, and they are being requested to render every aid possible by cooperating with representatives of the Department of State and officials of the local governments. The Department of Commerce is also requesting the War and Navy Departments to advise the military and naval attaches in South America to render all possible assistance.

For your information, I may say that the Boeing Airplane Company is one of the leading manufacturers of airplanes in the United States, supplying planes to the Navy Department and also supplying mail planes to certain airmail routes which it operates in the west. The Boeing planes, powered with the Pratt & Whitney motors, rank among the very best manufactured in the United States.

Mr. O'Neill is a captain, aviation specialist, Air Corps Reserves. He served in the First Pursuit Group, A. E. F., and was one of the first Americans to be rated as Ace. He received the D. S. C. with two oak leaves, and the Croix de Guerre while serving as Flight and Squadron Commandant of the 147th Aero Squadron. After the war,

he obtained a contract with the Mexican Government to organize the Mexican Air Force, and he served there as Chief and Technical Consultant for five years.

Any assistance that can properly be accorded Mr. O'Neill and this expedition will be beneficial to American aeronautics.

Faithfully yours,

WM. P. MACCRACKEN, JR.

811.79620 Boeing Airplane Co./2 : Telegram

*The Acting Secretary of State to the Ambassador in Brazil
(Morgan)*⁹⁶

WASHINGTON, February 6, 1928—6 p. m.

3. Captain Ralph A. O'Neill, representing the Boeing Airplane Company of Seattle, and the Pratt and Whitney Motor Corporation of Hartford, Connecticut, is sailing on S. S. *Southern Cross* February 11, for Rio de Janeiro for an experimental flight and to demonstrate before army and navy air service.

Please request free entry for equipment, including Boeing pursuit plane, Boeing mail plane and accessories, and ask permission for flight in Brazil. Reply by cable.

OLDS

811.79620 Boeing Airplane Co./7

The Secretary of State to the Secretary of Commerce (Hoover)

WASHINGTON, February 8, 1928.

The Secretary of State presents his compliments to the Honorable the Secretary of Commerce, and with reference to Mr. MacCracken's letter of February 4 to Mr. White regarding the projected journey of Mr. Ralph A. O'Neill to various South American countries in the interest of the Boeing Airplane Company and the Pratt and Whitney Motor Corporation, has the honor to say that appropriate instructions have been sent by cable to the American Embassies at Rio de Janeiro, Buenos Aires, Santiago and Lima, and to the American Legation at Montevideo.⁹⁷ Instructions have also been sent by mail to the American Legations at La Paz, Quito, Bogotá and Caracas.⁹⁸

It is assumed that Mr. O'Neill will communicate with the United States War Department in order to obtain permission to fly over the Panama Canal Zone and to arrange for flying in Panamá.

⁹⁶ The same, *mutatis mutandis*, on the same date to the missions in Argentina (No. 6), Chile (No. 14), Peru (No. 9), and Uruguay (No. 2).

⁹⁷ See telegram No. 3, Feb. 6, to the Ambassador in Brazil, *supra*.

⁹⁸ See instruction No. 1036, Feb. 9, to the Minister in Colombia, *infra*.

811.79620 Boeing Airplane Co./17

*The Secretary of State to the Minister in Colombia (Piles)*⁹⁹

No. 1036

WASHINGTON, February 9, 1928.

SIR: The Department transmits herewith for your information and appropriate action a copy of a letter under date of February 4 from the Department of Commerce¹ in connection with the journey of Mr. Ralph A. O'Neill to various South American countries in the interest of the Boeing Airplane Company and the Pratt and Whitney Motor Corporation.

It is desired that you request the Colombian authorities for permission to fly in Colombia, as well as for the free entry of the equipment mentioned in the enclosed letter.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

811.79620 Boeing Airplane Co./9 : Telegram

The Ambassador in Argentina (Bliss) to the Secretary of State

BUENOS AIRES, February 9, 1928—6 p. m.

[Received February 9—3:55 p. m.]

10. Your telegram No. 6, February 6, 6 p. m.² Does Captain O'Neill intend to demonstrate before Argentine Army and Navy air service? What information have you as to approximate date of his arrival in Argentina and does he intend to arrive by air or by ship?

BLISS

811.79620 Boeing Airplane Co./19 : Telegram

The Acting Secretary of State to the Ambassador in Argentina (Bliss)

WASHINGTON, February 10, 1928—2 p. m.

8. Your 10, February 9, 6 p. m. (1) Yes, if invited to do so. (2) Date of arrival will be communicated to you by Embassy at Rio de Janeiro. (3) He plans to fly from Rio de Janeiro to Buenos Aires and thence to Santiago in order to demonstrate capabilities of machines.

OLDS

⁹⁹ The same, *mutatis mutandis*, on the same date to the missions in Bolivia (No. 336), Ecuador (No. 574), and Venezuela (No. 1218).

¹ *Ante*, p. 818.

² See footnote 96, p. 820.

811.79620 Boeing Airplane Co./20: Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, March 8, 1928—1 p. m.

[Received 5:30 p. m.]

38. Application for customs free entry aeroplane and accessories Captain O'Neill denied but will be admitted under bond canceled upon leaving Chile. Expect the same response similar application for Lieutenant Wade,³ grounds commercial undertaking. Have not requested customs free entry for Curtiss aeroplanes and accessories as Department did not so instruct but believe Chilean Government would also treat as commercial venture. Have advised Wade, Lima; Doolittle,⁴ La Paz; and Somers⁵ and O'Neill, Rio de Janeiro, accordingly.

COLLIER

811.79620 Boeing Airplane Co./22

The Ambassador in Peru (Poindexter) to the Secretary of State

No. 907

LIMA, March 12, 1928.

[Received April 3.]

SIR: I have the honor to refer to the Department's cable No. 9, February 8, 3 P. M.,⁶ and to acknowledge the Department's Instruction No. 415 of February 9, 1923,⁷ relative to Captain Ralph A. O'Neill, representing the Boeing Airplane Company of Seattle, Washington, and the Pratt and Whitney Motor Corporation of Hartford, Connecticut, who sailed on the *Southern Cross* on February 11, 1928, for Rio de Janeiro for an experimental flight and demonstration before the Brazilian Army and Navy Air Service. In accordance with the Department's instructions, free entry was requested from the Peruvian Government for the planes and equipment of Captain O'Neill as well as permission for a flight over Peruvian soil, and in reply a Note was received from the Foreign Office by the Embassy under date of February 23, 1928, a copy of which in Spanish, together with an English translation, is enclosed herewith for the Department's information.

I have [etc.]

MILES POINDEXTER

³ Lt. Leigh Wade, representative of the Consolidated Aircraft Corporation; see pp. 811 ff.

⁴ Lt. James Doolittle, with Department of Commerce experimental and path-finding flight to South America; see pp. 811 ff.

⁵ Presumably James D. Summers, aeronautical trade commissioner of the Department of Commerce for Latin America.

⁶ See footnote 96, p. 820.

⁷ Not printed; it transmitted a copy of the letter of February 4 from the Department of Commerce, printed on p. 818.

[Enclosure—Translation]

The Peruvian Minister for Foreign Affairs (Rada) to the American Ambassador (Poindexter)

No. 13

LIMA, February 23, 1928.

MR. AMBASSADOR: I have had the honor of receiving Your Excellency's courteous Note Number 463 of the 14th of the present month in which you inform me, under instructions from your Government, that Captain Ralph A. O'Neill, representative of the Boeing Airplane Company of Seattle, Washington, and the Pratt and Whitney Motor Corporation of Hartford, Connecticut, has gone to Brazil to make experimental flights before the representatives of the Army and Navy of that country.

Your Excellency has been pleased to add that Captain O'Neill desires to make a visit to Peru with the same intention and therefore Your Excellency has asked my Government for the appropriate permission for such flights on Peruvian territory and the free entry of the equipment which Captain O'Neill is bringing with him.

In reply I take pleasure in informing Your Excellency that my Government will be happy to receive the visit of Captain O'Neill and will give him the permission which Your Excellency requests, all the facilities which he needs for the successful accomplishment of his purpose, and free entry for the equipment above mentioned. To this end I have addressed the Ministers of War, Navy, and Finance.

I take [etc.]

PEDRO JOSÉ RADA Y GAMIO

811.79620 Boeing Airplane Co./29

The Minister in Ecuador (Bading) to the Secretary of State

No. 1076

QUITO, April 24, 1928.

[Received May 23.]

SIR: I have the honor to refer to the Department's instruction No. 574, dated February 9, 1928,⁸ instructing the Legation to request the Ecuadorean authorities to grant Mr. Ralph A. O'Neill permission to fly in Ecuador, in the interest of the Boeing Airplane Company and the Pratt and Whitney Motor Corporation, and to enclose, herewith, a copy and translation of the reply of the Ecuadorean Ministry for Foreign Relations⁹ to the Legation's informal note sent in compliance with the Department's instruction.

It will be noted that the request to fly in Ecuador is granted and that orders extending all possible facilities to Captain O'Neill will be issued.

I have [etc.]

G. A. BADING

⁸ See footnote 99, p. 821.⁹ Not printed.

811.79620 Boeing Airplane Co./27

The Minister in Colombia (Piles) to the Secretary of State

No. 1312

BOGOTÁ, April 27, 1928.

[Received May 16.]

SIR: I have the honor to refer to the Department's Instruction No. 1036 of February 9, 1928, instructing me to request permission of the Colombian authorities for Mr. Ralph A. O'Neill, a representative of the Boeing Airplane Company and the Pratt and Whitney Motor Corporation, to fly in Colombia as well as the free entry of his equipment and to advise the Department that I have this day received a note from the Ministry for Foreign Affairs quoting Resolution No. 61 of April 11, 1928, of the Ministry of War, which grants Mr. O'Neill permission to fly in Colombian territory. Inasmuch as no reference was made with respect to the free entry of his equipment I am to-day again addressing the Foreign Office in the premises.

I have [etc.]

SAMUEL H. PILES

811.79620 Boeing Airplane Co./25 : Telegram

The Chargé in Uruguay (Gade) to the Secretary of State

MONTEVIDEO, May 11, 1928—10 a. m.

[Received 10:55 a. m.]

15. Department's telegram 2 of February 6, 6 p. m.¹⁰ Military aviation authorities here report this morning Captain O'Neill and companion in Comet aeroplane crashed near Minas last night. Latest information affirms injuries to both aviators slight.

GADE

811.79620 Boeing Airplane Co./26 : Telegram

The Chargé in Uruguay (Gade) to the Secretary of State

MONTEVIDEO, May 11, 1928—9 p. m.

[Received May 12—3:52 a. m.]

16. My telegram No. 15, May 11, 10 a. m. O'Neill was unaccompanied on flight, is expected to leave hospital tomorrow.¹¹ Aeroplane badly damaged.

GADE

¹⁰ See footnote 96, p. 820.¹¹ For further activities of Captain O'Neill, see pp. 825 ff.

Tri-Motors Airways Concession in Argentina

811.79620 Boeing Airplane Co./34 : Telegram

The Secretary of State to the Ambassador in Argentina (Bliss)

WASHINGTON, September 26, 1928—3 p. m.

38. Department of Commerce states that Captain Ralph A. O'Neil, who was in charge of the Boeing expedition,¹² negotiated with Argentine postal authorities a very favorable air mail concession. Upon his return to the United States he endeavored to interest Boeing Company in financing it but they declined and the Remington-Rand Corporation has agreed to finance it.

In view of the fact that the time limit within which O'Neil was to notify Argentine authorities that he was able adequately to finance the project has practically expired, he anticipates there may be some difficulty in actually securing the grant. Department of Commerce states that if you were informed that O'Neil has secured adequate financing for the project you might be in a position to assist in getting the concession.

As European Governments are reported to have already secured a foothold in Argentina, the Department would of course be glad to have American interests obtain contracts there also.

For your information the Post Office Department has already given contracts to an American Company to carry air mails to Panama via Central America and to Porto Rico via Cuba, Haiti, and the Dominican Republic.¹³ It is hoped eventually to extend these lines from the Canal Zone down the west coast of South America and across to Buenos Aires and from Porto Rico to Venezuela and down the east coast of South America.

KELLOGG

811.79620 Boeing Airplane Co./35 : Telegram

The Ambassador in Argentina (Bliss) to the Secretary of State

BUENOS AIRES, September 28, 1928—6 p. m.

[Received 8 p. m.]

64. Department's 38, September 26, 3 p. m. Lawyer who holds O'Neil's power of attorney saw Director of Posts and Telegraphs this morning and was advised that no contracts could be consummated in short time remaining of present administration. He advised waiting till matter could be taken up with new government. O'Neil's lawyer counsels deferring further action until appointment of new Director of Posts and Telegraphs.

BLISS

¹² See pp. 818 ff.¹³ See telegram No. 60, July 11, to the Minister in Honduras, p. 786.

811.79620 Boeing Airplane Co./38 : Telegram

The Secretary of State to the Ambassador in Argentina (Bliss)

WASHINGTON, January 8, 1929—5 p. m.

7. Department's 38, September 26, 3 p. m. Captain O'Neil states that contract was signed by the Director of Posts with Tri-Motors Airways December 22, subject to approval by other officials. Please report present status of the matter and possibilities of final ratification of the contract in the near future. Lend all appropriate assistance to O'Neil's representative and report by telegraph.

KELLOGG

811.79620 Boeing Airplane Co./39 : Telegram

The Ambassador in Argentina (Bliss) to the Secretary of State

BUENOS AIRES, January 9, 1929—6 p. m.

[Received 9:10 p. m.]

7. Your 7, January 8, 5 p. m. Inasmuch as the time was too short to obtain ratification of contract by Executive prior to end of Alvear term it was thought safer to inaugurate fresh negotiations with the new administration. These are not concluded yet, the main point of discussion being method of reimbursing company. O'Neil's representative seems to be confident as to ultimate prospects¹⁴ but by reason of recent change of administration Government business is subject to delay. Commercial attaché also cabling.

BLISS

Possible Extension of American Air Lines to Venezuela

810.796/5 : Telegram

The Chargé in Venezuela (Engert) to the Secretary of State

CARACAS, February 17, 1928—1 p. m.

[Received 7 p. m.]

5. Please see confidential letter from transportation division, Department of Commerce, to the commercial attaché in Caracas January 12.¹⁵ Does the Department desire the Legation to make discreet inquiries regarding the Government's attitude towards the proposed air line?

ENGERT

¹⁴ A decree granting Tri-Motors Airways the right to establish an air service with the United States was signed Feb. 28, 1929. The decree embodying the contract was printed in the Buenos Aires *La Epoca*, Feb. 28, 1929. (File No. 811.79620 Boeing Airplane Co./41, 42.)

¹⁵ Not printed; copy was transmitted to the Department in despatch No. 1497, Mar. 6, 1928, from the Chargé in Venezuela (file No. 810.796/7).

810.796/5 : Telegram

The Secretary of State to the Chargé in Venezuela (Engert)

[Paraphrase]

WASHINGTON, *March 3, 1928—6 p. m.*

5. Your telegram No. 5, February 17, 1 p. m. The Department considers that representatives of the United States Government should not initiate or conduct private business negotiations on behalf of private American interests with foreign governments. You should not, therefore, approach the Government of Venezuela in the matter as suggested. Of course the Department expects the Legation to give all proper assistance to responsible American interests engaged in legitimate activities in foreign countries, and you may give such assistance to the representative of the interests in question.

Department is informing Department of Commerce.

KELLOGG

810.796/5

*The Secretary of State to the Secretary of Commerce (Hoover)*WASHINGTON, *March 3, 1928.*

SIR: The Department has received a telegram from the American Chargé d'Affaires ad interim at Caracas, referring to a confidential communication dated January 12, 1928, sent by the Transportation Division of the Department of Commerce to its Caracas office on the subject of air line concessions in Venezuela and inquiring whether the Legation should institute inquiries with a view to obtaining the Venezuelan Government's attitude towards the proposed air line.

It appears from the Department's information that the American interests concerned have not themselves taken up this matter with the Venezuelan Government, and are relying upon representatives of the United States in Venezuela to take the initial steps.

The Department of State expects its representatives abroad to render all proper assistance and support to responsible American interests in their legitimate activities abroad. It is, however, the practice of this Department to avoid having the representatives of this Government abroad initiate or conduct private business negotiations with foreign governments on behalf of private American interests.

In view of the above considerations, this Department, after careful consideration, feels, in the light of the information at hand, that it is not in a position to instruct the American Legation at Caracas to take up this subject with the Venezuelan Government,

and has instructed the Legation to that effect. The Legation, however, will of course give all proper assistance to a representative of the American interests in question.

I have [etc.]

For the Secretary of State:

FRANCIS WHITE

Assistant Secretary

810.796/5 supp. : Telegram

The Secretary of State to the Chargé in Venezuela (Engert)

[Paraphrase]

WASHINGTON, *March 10, 1928—4 p. m.*

7. Your telegram No. 5, February 17, 1 p. m., and Department's telegram No. 5, March 3, 6 p. m., in reply.

Endeavor in an informal and discreet manner to ascertain the attitude of the Government of Venezuela toward the establishment by American interests of commercial air lines in Venezuela, or air lines connecting Venezuela with neighboring nations and the United States. Without further definite instructions, do not make any statement which could possibly be interpreted as favoring any specific interest or any particular project.

This information is desired by the Department simply for its guidance when advising American interests which may inquire as to the probable attitude of the Government of Venezuela toward the possible extension of air lines to Venezuela or the establishment of air lines within that country.

KELLOGG

810.796/8

The Chargé in Venezuela (Engert) to the Secretary of State

No. 1502

CARACAS, *March 13, 1928.*

[Received March 30.]

SIR: I have the honor to acknowledge the receipt of the Department's confidential telegram No. 7 of March 10, 4 p. m., regarding the attitude of the Venezuelan Government towards American interests desiring to establish air lines in Venezuela or between Venezuela and neighboring countries.

In reply I have the honor to refer to the Legation's despatch No. 1497 of March 6¹⁶ in which I reported that Mr. Frederic D. Grab, the Assistant Trade Commissioner, had had an interview with the Minister of Fomento on this subject. As stated in Mr. Grab's letter of March 5 to the Department of Commerce, a copy of which was enclosed with despatch No. 1497, the Minister of Fomento did not appear to hold out much hope that an application for an air line would receive favor-

¹⁶ Not printed.

able consideration. However, as this inquiry related more specifically to a proposed line between Maracaibo and Curaçao, the Department may perhaps desire me to make discreet inquiries as to the attitude of the Venezuelan Government towards commercial aviation in general. But before taking any steps in that direction I shall await further instructions from the Department.

I have [etc.]

C. VAN H. ENGERT

810.796/8

The Secretary of State to the Chargé in Venezuela (Engert)

No. 1248

WASHINGTON, May 26, 1928.

SIR: With further reference to the Department's confidential telegram No. 7 of March 10, 4 p. m., and your despatch No. 1502 of March 13, 1928, regarding the attitude of the Venezuelan Government towards American interests desiring to establish air lines in Venezuela, or between Venezuela and neighboring countries, you are informed that it is the intention of certain American aeronautical interests, operating with the approval and encouragement of the United States Government, to interest themselves within a short time in the carrying of air mail and passengers in the Caribbean area, probably establishing a connection between Panama and Venezuela via Colombia. There is now a bill pending in the United States Congress to authorize the United States Government to give financial assistance to air lines to Central and South America. It is important for the success of their endeavors that the Venezuelan Government grant no exclusive concessions to foreign aeronautical interests to operate in Venezuela, and it is of course highly desirable that the Venezuelan Government grant no concessions at all to foreign interests for air transport in Venezuela until the American companies above mentioned have had an opportunity to develop their project, since any concessions to operate air lines in Venezuela might in effect serve to prevent American interests from establishing a line. The United States, as you know, has always felt very strongly that an "open door" policy in such matters is best qualified to benefit all concerned.

The Department desires you to seize a favorable opportunity to discuss this matter informally and confidentially with President Gomez, intimating that the United States Government would be happy eventually to see Venezuelan and American aeronautical interests joined in the development of aviation in Venezuela, and that this Government would appreciate it if the field were kept open pending the maturing and presentation of American projects which are now being considered.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

810.796/16 : Telegram

The Chargé in Venezuela (Engert) to the Secretary of State

CARACAS, July 3, 1928—4 p. m.

[Received July 3—11:15 a. m.]

70. Department's instruction No. 1248, May 26th. For various local reasons it seemed best not to approach the President direct, but the substance of the last paragraph has been informally conveyed to him by the Minister for Foreign Affairs.

No concessions appear as yet to have been granted to any foreign interests but the German Colombian Company has long been trying to obtain one and there is a vague British proposal for a line between Trinidad, La Guayra, Curaçao, Maracaibo.

ENGERT

819.796/17 : Telegram

The Chargé in Venezuela (Engert) to the Secretary of State

[Paraphrase]

CARACAS, July 3, 1928—5 p. m.

[Received 10:16 p. m.]

71. My telegram No. 70, July 3, 4 p. m. I have been given to understand that the United States has been rather slow in entering this field,¹⁷ and that it cannot hope to keep out foreign interests indefinitely.

ENGERT

REPRESENTATIONS BY FOREIGN GOVERNMENTS WITH RESPECT TO
SENATE BILL RELATING TO PAYMENT OF ADVANCE WAGES TO
SEAMEN ON FOREIGN VESSELS

196.6/1070

*Senate Bill No. 2945, 70th Congress, First Session*¹⁸

A BILL relating to the payment of advance wages and allotments in respect of seamen on foreign vessels, and making further provision for carrying out the purposes of the Seamen's Act, approved March 4, 1915.¹⁹

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of paragraph (e) of section 10 of the Act entitled "An Act to remove certain burdens on the American Merchant Marine and en-

¹⁷ See telegram No. 23, July 11, 7 p. m., to the Chargé in Venezuela, p. 787.

¹⁸ Introduced in the Senate by Mr. La Follette, Jan. 27 (calendar day, Jan. 31), 1928; read twice and referred to the Committee on Commerce.

¹⁹ 38 Stat. 1164.

courage the American foreign-carrying trade, and for other purposes," approved June 26, 1884, as amended, is further amended to read as follows:

"(e) This section shall apply to payments of advance wages and allotments, in respect of seamen on foreign vessels, whether made within or without the United States or territory subject to the jurisdiction thereof, as well as to payments of advance wages and allotments in respect of seamen upon vessels of the United States; except that no criminal penalty under this section shall be imposed for a violation of this section in respect of a seaman upon a foreign vessel if such violation occurs outside the United States and territory subject to the jurisdiction thereof. The courts of the United States shall be open to seamen for suits for payment of wages, irrespective of whether the wages were earned upon a vessel of the United States or a foreign vessel, or within or without the United States or territory subject to the jurisdiction thereof, and in any such suit the provisions of this section shall be applicable. Any master, owner, consignee, or agent of any foreign vessel who violates the provisions of this section within the United States or territory subject to the jurisdiction thereof shall be liable to the same penalty to which the master, owner, or agent of a vessel of the United States would be liable for a similar violation."

196.6/1064

Memorandum by Mr. C. B. Hosmer, Division of Foreign Service Administration, of a Conversation With Mr. J. Balfour, First Secretary of the British Embassy

WASHINGTON, February 25, 1928.

Mr. Balfour desired to discuss the provisions of Senate Bill 2945, introduced by Senator La Follette. This bill seeks to impose upon foreign vessels which enter ports of the United States, the same restrictions which are now imposed against American vessels in regard to advancements of wages to seamen shipped in foreign ports.

In the case of *Jackson et al v. the Archimedes*, decided by the United States Supreme Court on January 3, 1928,²⁰ it was decided that American vessels are prohibited from making advances to seamen shipped by them in foreign ports; this reverses decisions reported in 248 U. S. 185 and 248 U. S. 205, which were rendered before the amendment of the law by Section 32 of the Act of June 5, 1920.²¹

I suggested that I was not in a position to speak for the Department regarding the proposed bill, but assured Mr. Balfour that if he desired to take the matter up with the Western European Division, I would be glad to contribute such knowledge as I have in the premises, if asked to do so. He appeared to be content at present with a

²⁰ 275 U. S. 463.

²¹ 41 Stat. 988, 1006.

very general discussion of the matter, dealing chiefly with the motive which had probably inspired the introduction of the bill. Although Mr. Balfour carefully refrained from any suggestion that retaliatory legislation might be passed if the United States should endeavor thus to regulate contracts between aliens and foreign vessels, entered into in foreign ports, there was a clear inference that he felt this would constitute a very radical departure from long accepted practices among nations and indicated that he might receive instructions at a later date to discuss the question more in detail with the Department along the lines of the expediency of this class of legislation.

I have ascertained that the Bureau of Navigation, Department of Commerce, has not been asked by Congress for any report on the bill in question. It appears doubtful whether Congress will require a report from this Department unless it should be brought to the attention of the appropriate Committees that this class of legislation might involve us in perplexing questions with other nations. A copy of the proposed bill is attached.

HOSMER

196.6/1068

The British Embassy to the Secretary of State

MEMORANDUM

The British Embassy understand that Senate Bill No. 2945 relating to the payment of advance wages and allotments in respect of seamen of foreign vessels, and making further provisions for carrying out the purposes of the Seamen's Act, approved March 4th, 1915, was passed by the Senate on April 24th. It appears to the Embassy that the effect of this bill is to declare unlawful the payment of advance wages abroad to seamen engaged in British and other foreign ships outside the United States. The Bill therefore appears to seek to vary forcibly the provisions of a contract made within British jurisdiction, and in many cases between British subjects, which is perfectly valid under British law, and apparently purports to regulate the manner in which the master of a British ship may engage a British crew in a British port. The effect of the bill, therefore, appears to the Embassy to be contrary to the generally accepted principles of International Law. In view of the serious effect which such a measure would have upon the ocean borne commerce between Great Britain and the United States, the Embassy desire to draw attention to the difficulties which would appear to them to follow from its enactment.

WASHINGTON, April 26, 1928.

196.6/1068

*The Secretary of State to the Honorable Wallace H. White, Jr.*²²

WASHINGTON, April 28, 1928.

SIR: I have the honor to enclose for your consideration a copy of a memorandum of April 26, 1928, left at the Department by the British Ambassador,²³ in which attention is drawn to the difficulties which may attend the enactment into law of an amendment to the Seamen's Act of March 4, 1915, passed by the Senate on April 24, 1928.

The amendment in effect appears to declare illegal contracts for the payment of advance wages concluded by aliens without the jurisdiction of the United States in connection with the employment of alien seamen on board alien vessels and declares that "the courts of the United States shall be open to seamen for suits for payment of wages, irrespective of whether the wages were earned upon a vessel of the United States or a foreign vessel, or within or without the United States or territory subject to the jurisdiction thereof . . .".

Without taking into consideration the question whether Congress has the power to declare that contracts made abroad by aliens are invalid, it is believed that the action contemplated in the amendment runs contra to generally accepted principles of law to the effect that contracts of all kinds are to be governed as to their nature, validity, and interpretation of the law of the place where they were made. While it is generally conceded that the courts of one State will not enforce a contract made in another where to do so would be in violation of their own statutes, or a settled public policy of a State, it is believed that contracts of this character are not in a true sense exceptions to the rule of universal validity being not invalid but merely unenforceable in the particular forum.

I may add that a representative of the Italian Embassy, under instructions from the Ambassador, called recently at the Department to state that his Government wished to make all reserves in connection with the passage by the Senate of the amendment to the Seamen's Act and adverted to the provisions of Article 11 of the Consular Convention between the United States and Italy of 1878,²⁴ which reads in part as follows:

"Consuls-General, Consuls, Vice-Consuls, and Consular Agents . . . shall alone take cognizance of questions of whatever kind, that may arise, both at sea and in port, between the captain, officers and seamen, without exception, and especially of those relating to wages and the fulfilment of agreements reciprocally made. The courts, or

²² Chairman of the Committee on Merchant Marine and Fisheries, House of Representatives.

²³ *Supra*.

²⁴ Malloy, *Treaties, 1776-1909*, vol 1, pp. 977, 980.

federal, state or municipal authorities in the United States and the tribunals or authorities in Italy, shall not under any pretext, interfere in such questions, . . .”

There would seem good grounds to fear that in so far as the amendment refers to the shipment of seamen on foreign vessels in foreign ports, it will give rise to numerous conflicts of laws, and may render the American merchant marine subject to retaliatory measures by foreign governments which in their effect may far out-weigh any advantages which might be secured by this legislation.

I have deemed it proper to bring these considerations to your attention, in the event that the amendment to the Seaman's Act passed by the Senate be referred to your Committee, for such action as it may deem it appropriate to take in the matter with a view to meeting the objections discussed above.

I have [etc.]

For the Secretary of State:

ROBERT E. OLDS

Under Secretary

196.6/1077

The Italian Embassy to the Department of State

MEMORANDUM

The Italian Ambassador wishes to call attention to the fact that the Senate has passed a Bill (S 2945) which amends the Seaman's Act of March 4, 1915, and is relating to the payment of wages and allotments due to seamen of foreign vessels.

The Italian Ambassador desires to point out that, while said Bill provides that the Courts of the United States shall be open to seamen for claims concerning payments of wages irrespective of whether these wages were earned upon a vessel of the United States or a foreign vessel, Article XI of the Consular Convention between Italy and the United States disposes that the Royal Italian Consular Officials shall alone take cognizance of such questions.

WASHINGTON, April 30, 1928.

196.6/1071

*The Swedish Legation to the Department of State*²⁵

MEMORANDUM

The attention of the Swedish Legation has been drawn to a bill, "S. 2945—An Act relating to the payment of advance wages and

²⁵ Copy transmitted to the Chairman of the Committee on Merchant Marine and Fisheries, House of Representatives, May 4, 1928.

allotments in respect of seamen on foreign vessels, and making further provision for carrying out the purposes of the Seamen's Act, approved March 4, 1915," which bill passed the Senate April 20, 1928.

On perusal of the bill the Swedish Legation finds that it contains stipulations which, should the bill become law, would gravely affect Swedish shipping interests, inasmuch as a contract legally entered into between Swedes on a Swedish vessel while in Sweden would fall within the jurisdiction of the Courts of the United States. Such a law would not be confined to limits over which a law-making power has jurisdiction and would therefore, according to the Swedish Government's view, be contrary to fundamental principles of law commonly acknowledged among nations.

WASHINGTON, *April 30, 1928.*

196.6/1072

*The Netherlands Legation to the Department of State*²⁶

No. 1413

The Royal Netherland Legation is aware that a Bill introduced in the Senate by Mr. La Follette, relating to the payment of advance wages and allotments in respect of seamen on foreign vessels and making further provision for carrying out the purposes of the Seamen's Act, approved March 4, 1915, has been passed by the Senate on April 24th.

The Netherland Legation has the honor to draw the attention of the State Department upon the fact, that in case this Bill is coming into force, great difficulties will result therefrom for the Netherland shipping, inasmuch as the courts of the United States will have to judge claims of wages between Dutch seamen and Dutch shipowners according to the clauses of this new Bill, but under contracts drawn up before a Dutch authority in Holland or a Dutch Consul under law terms entirely different from the American law.

The shipping interests as well as the commercial relations between the United States and The Netherlands undoubtedly will suffer from these facts.

The Netherland Legation is of opinion, that the provisions of the proposed Bill are contrary to the conventional understandings of International Law.

WASHINGTON, *May 3, 1928.*

²⁶ Copy transmitted to the Chairman of the Committee on Merchant Marine and Fisheries, the House of Representatives, May 10, 1928.

196.6/1075

*The Danish Minister (Brun) to the Assistant Secretary of State
(Castle)*

J. No. 61. E. a/2. (8)

No. 82

WASHINGTON, June 12, 1928.

MY DEAR MR. SECRETARY: The Danish Minister of Foreign Affairs has directed me to call the attention of your Department informally to the provisions of Senator La Follette's bill S-2945, relating to the payment of advance wages and allotments in respect of seamen on foreign vessels, and making further provision for carrying out the purpose of the Seamen's Act, approved March 4, 1915. You are no doubt well acquainted with this bill and with the provision therein proposed which says: "(e) This section shall apply to payments of advance wages and allotments, in respect of seamen on foreign vessels, whether made within or without the United States or territory subject to the jurisdiction thereof, etc."

In this respect I beg leave to state, that pursuant to the Danish Seamen's Act of May 1, 1923, Paragraphs 25 and 20 the acts of giving or receiving advance wages and allotments are legal, and that in the opinion of the Danish Government the extension of jurisdiction contemplated in the bill under discussion would conflict not only with Danish law, but also with the generally accepted principles of International law and practice on this subject, to wit: the status and rights of merchant ships in foreign ports, and with the adjustment of an International navigation policy in a practicable and desirable way.

The bill was as you know passed by the Senate on April 24th last, but was not reported from the Committee of the House before the session was closed on May 29th. I presume, however, that it is to be expected that the bill will be reported or come up for discussion in the coming session of Congress next December and, with this eventuality in view, I would be greatly obliged to you, if you could see your way to advise the proper Committees of the considerations set forth above and of the difficulties that we anticipate if the bill should become law.

Believe me [etc.]

C. BRUN

196.6/1077

The Secretary of State to the Italian Embassy

MEMORANDUM

The Secretary of State refers to the memorandum of the Royal Italian Ambassador dated April 30, 1928, in which the Ambassador called attention to the provisions of Senate Bill No. 2945 relating to the payment of advance wages and allotments to seamen on foreign

vessels and stated that the bill is in conflict with the stipulations of Article XI of the Consular Convention between the United States and Italy concluded on May 8, 1878.

The Secretary of State has the honor to inform the Ambassador that while the bill referred to was passed by the Senate on April 24, 1928, and was sent to the House of Representatives where it was referred to the Committee on Merchant Marine and Fisheries on April 26th, no further action in regard to it was taken before the adjournment of Congress.

In this relation the Secretary of State would bring to the Ambassador's notice that Article XI of the Convention of 1878 was annulled by the Supplemental Consular Convention between the United States and Italy concluded on February 24, 1881,²⁷ which substituted a new article therefor, and that the Convention of 1881 was terminated July 1, 1916, in consequence of a notice given by this Government through the American Embassy at Rome, June 21, 1915, and April 21, 1916, and the acceptance of such notice by the Italian Government.²⁸

WASHINGTON, *June 29, 1928.*

196.6/1069

The Secretary of State to the Honorable Wallace H. White, Jr.

WASHINGTON, *December 8, 1928.*

SIR: I have the honor to refer to the Department's letter of April 28, 1928, relative to the difficulties which may attend the enactment into law of an amendment to the Seamen's Act of March 4, 1915, passed by the Senate on April 24, 1928, and to enclose for your further consideration, a copy of a note of June 12, 1928, received from the Royal Danish Legation at this capital²⁹ setting forth the opinion of the Danish Government that the extension of jurisdiction contemplated in the Bill would conflict not only with Danish laws but also with the generally accepted principles of international law and practice on this subject.

For your information it should be stated that Article 11 of the Consular Convention between the United States and Italy of 1878 to which the Italian Ambassador adverted and which was quoted in the Department's letter of April 28, 1928, is no longer in force.

If the proposed amendment be adopted, it is not improbable that foreign Governments might regard it as contrary to international

²⁷ Malloy, *Treaties*, 1776-1909, vol. I, p. 983.

²⁸ For correspondence on this subject, see *Foreign Relations*, 1915, pp. 3-10, and *ibid.*, 1917, pp. 18-25.

²⁹ *Ante*, p. 836.

comity, thereby causing embarrassment to this Government in the conduct of its foreign relations. Moreover, as has already been pointed out by the Department, the enactment into law of the amendment in question may render the American Merchant Marine subject to retaliatory measures by foreign Governments which in their effect may far outweigh any advantages which might be secured by this legislation. For the reasons stated, the Department considers that the passage of the bill under discussion would be undesirable.

I have [etc.]

FRANK B. KELLOGG

REPRESENTATIONS BY FOREIGN GOVERNMENTS REGARDING SENATE
BILLS FOR THE DEPORTATION OF CERTAIN ALIEN SEAMEN²⁰

150.071Control/6

The British Ambassador (Howard) to the Secretary of State

No. 74

WASHINGTON, February 4, 1927.

SIR: I have the honour to inform you that my attention has been drawn to a Bill S. 3574³¹ providing for the deportation of certain alien seamen and for other purposes, which was considered on the 2nd instant by the United States Senate, and passed in the third reading.

Section 3 of this bill provides that every alien employed on board of any vessel arriving in the United States who is found on examination by an immigration inspector not to be a bona fide seaman is immediately to be removed from the vessel to an immigration station, and if found to be inadmissible to the United States is to be deported as a passenger "on a vessel other than that on which brought, at the expense of the vessel by which brought, and the vessel by which brought shall not be granted clearance until such expenses are paid or their payment satisfactorily guaranteed."

Furthermore, it appears from Section 7 of this bill that foreign vessels entering United States ports are to be debarred from including as members of their crew aliens ineligible to United States citizenship who are non-admissible to the United States under Section 13 (c) of the Immigration Act of 1924,³² unless such aliens are natives of the particular country, island, dependency or colony to the merchant marine of which the vessel in question belongs.

This Section of the Bill also lays down that any alien seaman brought into a port of the United States in violation of this provision shall be excluded from admission or temporary landing and shall be deported to the place of shipment or to the country of his nativity on a vessel other than that on which brought, the deportation ex-

²⁰ These representations were brought to the attention of the Senate Committee on Immigration.

³¹ *Congressional Record*, Feb. 2, 1927, vol. 68, pt. 3, p. 2782.

³² 43 Stat. 153.

penses being defrayed by the vessel on which the alien is brought to the United States.

Inasmuch as the above mentioned sections, if interpreted in a restrictive sense, must, I cannot but feel, meet with the strenuous opposition of shipping interests in the different parts of the British Empire, I have drawn the attention of His Majesty's Government thereto for such action as they may consider suitable. At the same time, I am not clear as to the exact interpretation which should be placed upon the above mentioned sections of the Bill and as to the manner in which their provisions, if enacted, will be applied to vessels of the mercantile marine of Great Britain and the self-governing Dominions, and I should accordingly be grateful to receive from the appropriate authorities of the United States Government at their earliest convenience an authoritative interpretation of the meaning of Sections 3 and 7 of the Bill under reference.³³

I have [etc.]

ESME HOWARD

150.071Control/8

The German Ambassador (Maltzan) to the Secretary of State

[Translation]

WASHINGTON, February 5, 1927.

MR. SECRETARY OF STATE: I have the honor to refer to the fact that the Bill S. 3574, "a bill to provide for the deportation of certain alien seamen, and for other purposes" was taken up in the Senate.

I reported to my Government in due course concerning the Bill and also the whole of the hearings in the Immigration Committee of the Senate concerning the Bill. My Government, reserving the right of further instructions, has now instructed me to call the attention of the Government of the United States to the fact that the enactment of the Bill would prove an extraordinary burden to German shipping interests in its application.

Accept [etc.]

MALTZAN

150.071Control/9

The French Chargé (Sartiges) to the Secretary of State

[Translation]

WASHINGTON, February 7, 1927.

MR. SECRETARY OF STATE: My attention has been called to Bill S. 3574, printed on page 2891 of the *Congressional Record* under date of February 2, 1927,³⁴ which provides for the deportation of certain

³³ The British Embassy was informed orally by an officer of the Department of State regarding the status of the bill and that it was unlikely that any House committee action would be taken without the Department of State having an opportunity to be heard.

³⁴ Reference is to the daily issue, not the bound issue.

foreign seamen, and was passed by the American Senate at its third reading.

Section 3 of the Bill provides that any foreigner employed on board a vessel arriving in the United States who, after examination by the immigration inspector is not found to be a bona fide sailor shall immediately be brought to an immigration station and if found to be an undesirable shall be deported as a passenger on a vessel other than that which brought him. The Bill also provides that the expenses of the return trip will be borne by the vessel which brought the undesirable, which vessel will not be allowed to leave the port until the expenses are paid or adequate bail for such payment has been filed.

Furthermore, it appears from Section 7 of the same Bill that foreign vessels entering the ports of the United States will not have the right to carry in their crew foreigners who, if they would seek to enter the United States as immigrants, would have admittance denied them under the provisions of Paragraph (c) of Section 13 of the Immigration Law of 1924, unless those aliens are from the country, colony or dependency of the merchant marine to which the said vessel belongs.

That section provides the same penalties as Section 3.

If the restrictive interpretation is put on the foregoing provisions they will not fail to prove considerably cumbersome to the French colonial merchant marine and I should like to be in position to forward as soon as possible to my Government some explanations as to the precise meaning to be given to the sections of that Bill and also the way in which the provisions, if enacted, shall apply to the French merchant vessels. I should therefore be thankful to Your Excellency if you would kindly acquaint me at the earliest possible date with the official interpretation to be put on Sections 3 and 7 of the said Bill.³⁵

Be pleased [etc.]

SARTIGES

150.071Control/16

The British Embassy to the Department of State

MEMORANDUM

SENATE BILL S-717 TO PROVIDE FOR THE DEPORTATION OF ALIEN SEAMEN
AND FOR OTHER PURPOSES

Senate Bill S 717, copy of which is attached,³⁶ is almost identical with the bill S 3574, which was killed in the House of Representatives

³⁵ In a note of Feb. 17, 1927, acknowledging this note, the Department stated that, if it were decided to consider the bill further, hearings would be held and that "these hearings will undoubtedly bring out more clearly the purposes of the proposed measure." (File No. 150.071Control/19.)

³⁶ Not printed. A memorandum of May 3, 1929, from the British Embassy (not printed), with reference to Bill S. 202 introduced Apr. 18, 1929, identical with Bill S. 717, referred to this memorandum of Jan. 4, 1928, and attached a further copy (file No. 150.071Control/20).

last year. This bill appears to be open to serious objection on the part of foreign nations.

In the first place, the bill provides for interference with the composition of the crews of foreign vessels while in United States ports. It is the general international understanding that when private ships of a foreign state are in port the territorial authorities should refrain from interference with the interior economy of the vessel. The composition of the crew is a matter which affects the interior economy of a vessel, and the proposed clauses, if enacted, would therefore conflict with a well-established, well-recognized and useful international practice.

Further, the bill would in effect discriminate against foreign vessels trading in American ports. It would cause great embarrassment to all ships in which Chinese labor and Lascars are employed, and in particular to British Tramp Steamers trading with American Ports in the course of their world voyages. The technical difficulties of eliminating from the crews of tramp steamers the Asiatic elements against which this bill is aimed would, in practice, probably result in the masters of such vessels being compelled to cut out American ports from their sailing schedules. In this way freight rates on American exported produce would automatically rise, prices of American grain and cotton and other produce would be increased in the countries of consumption, and British consumers of such produce would be obliged to curtail their purchases with resulting damage to themselves and their trade with the United States.

Even stronger objection may be taken to the proposed legislation on the ground that it constitutes a direct interference with trade, its effect being to dictate to other countries how they are to carry goods to and from the American market. At the same time, the proposed interference with the composition of the crews of foreign vessels and in particular the difficulty of complying with Section 6 of the Bill, which refuses clearance to vessels departing from the United States unless carrying a crew of at least the same number as on arrival, are likely to lead to much inconvenience and in many cases to long delay, involving the alteration of sailing schedules and serious loss to business. Further, the Bill would prohibit the employment of Lascars and Chinese on ships registered outside their own States, and countries such as India might well consider this as a direct and unwarrantable interference with the employment of their subjects on the high seas. Active apprehensions have in fact been caused in the Legislative Assembly in India, who have been in communication with His Majesty's Government in Great Britain on the subject.

At the same time, protests have been received from many of the principal shipping interests in Great Britain. The opinion was ex-

pressed before the House Committee last year that the bill would in practice constitute a discrimination in favour of Japanese and other Asiatic vessels at the expense of the merchant marine of Great Britain and all other maritime countries, since whereas vessels of these countries would be prevented from employing Japanese and Asiatic labour, Japanese or other Asiatic merchant vessels would be free to call at United States ports with crews of their own nationality on board. In addition, as pointed out above, there would appear to be discrimination against Asiatic seamen serving in European or other vessels not of their own country.

Detailed objections to the Bill on technical grounds were laid before the House Committee on Immigration by representatives of shipping interests last year.

[WASHINGTON,] *January 4, 1928.*

150.071Control/17

The Swedish Legation to the Department of State

MEMORANDUM

Swedish shipowners operating vessels on the United States have voiced their deep concern on account of Senate Bill 717, introduced in the United States Senate on December 9, 1927, by Senator King, regarding the deportation of certain alien seamen ("Alien Seamen Act of 1926"). The provisions of the bill seem to give room for such a strict interpretation as to exclude seamen of a kind that masters of ships very often have to employ in traffic between North and South America on account of a shortage of such seamen as would ordinarily come within the category "bona fide seamen".

The passage of the bill would undoubtedly create great difficulties in securing the necessary crews and cause many hardships and considerable losses to Swedish shipowners.

The provisions in the bill which prescribe that all vessels entering ports of the United States manned with crews the majority of which, exclusive of licensed officers, have been engaged and taken on at foreign ports shall, when departing from the United States ports, carry a crew of at least equal number, may also create great difficulties for the Swedish shipowners.

WASHINGTON, *January 13, 1928.*

150.071Control/14

The Netherlands Legation to the Department of State

No. 170

The attention of the Royal Netherland Legation has been drawn on a Bill, which, if passed, will be called, "Alien Seamen Act of

1926", and is mentioned on page 347 of the *Congressional Record* of December 9, 1927.³⁷ It is reintroduced into the Senate and referred to the Committee on Immigration.

Two clauses of this Bill will create, if enforced as introduced, serious difficulties for several steamship Companies of the Netherlands.

The first is the provision prohibiting any ship from entering an American port, if among her crew are aliens, who would not be admissible to the United States under the Immigration Laws (Section 7). A great number of Netherland ships, especially those of the Pacific Lines, have in their crew Javanese and Chinese, both being most times Netherland subjects. If the bill should come into force, the strange fact would occur, that a ship, carrying the Netherland flag, would not be allowed to have certain subjects of her own country in her crew when entering a port of the United States.

The second clause is to the effect that clearance will be refused to any ship whose crew, as far as engaged and taken at foreign ports, shall, when departing from the United States, be smaller than at the arrival of the vessel. It is obvious, that this provision in many cases will cause a long delay and considerable pecuniary loss to Netherlands vessels and it seems hardly fair to force the latter to take on board a number of undesirable aliens simply in order to bring the crew up to its full number.

The Netherland Government considers that this Bill, if passed, will be most detrimental to the shipping interests of the Kingdom and will constitute a strong impediment to the development of the economic relations between the United States and Holland.

The Royal Government would therefore highly appreciate if the United States Government and Congress, when the bill is under discussion, would give due consideration to the very important interests of Netherlands navigation, endangered thereby.

WASHINGTON, *January 17, 1928.*

150.071Control/18

*The German Embassy to the Department of State*³⁸

Senate Bill 717 "To provide for the deportation of certain alien seamen and for other purposes[?]" in the opinion of the German Government if enacted will entail serious hardships to German shipping interests. Especially Section 3 and Section 6 are considered to cause objections on the part of German shipping.

Section 3 provides that if an alien who is held not to be a bona fide seaman has been found inadmissible "such alien shall be deported, as

³⁷ Daily issue; bound issue, vol. 69, pt. 1, p. 341.

³⁸ Left at the Department by the Secretary of the German Embassy, Jan. 21, 1928.

a passenger, on a vessel other than that by which brought, at the expense of the vessel by which brought, and the vessel by which brought shall not be granted clearance until such expense[s] are paid or their payment satisfactorily guaranteed."

Section 6 provides that "all vessels entering ports of the United States manned with crews the majority of which, exclusive of licensed officers, have been engaged and taken on at foreign ports shall, when departing from the United States ports, carry a crew of at least equal number, and any such vessel which fails to comply with this requirement shall be refused clearance".

150.071Control/15

The Norwegian Legation to the Department of State

MEMORANDUM

Norwegian Shipowners interested in the shipping trade on the ports of the United States have expressed their great concern to the Norwegian Government about a Bill (Senate Bill 717), introduced in the United States Senate by Senator King and providing for the deportation of certain alien seamen. The said Norwegian Shipowners are of opinion that the Bill, if passed, undoubtedly will cause many difficulties and great expenses to their ships.

1) In the first place the provisions of the Bill excluding all seamen not falling under the strict category of "bona fide" seamen would, in case of shortage of the crew brought about say by sickness, death or desertion in foreign ports and when, as frequently happens in certain countries ordinary professional seamen not are available, prevent captains from completing the crew, thus exposing their ships to risks and perils from being undermanned. 2) The necessity for ships, under section 6 of the Bill, when departing from the United States, to carry a crew of at least equal number as when entering the port will often cause great difficulties. 3) According to sections 3 and 7 alien seamen found inadmissible from the reasons therein stated shall be deported on a vessel other than that on which they were brought, at the expense of the vessel by which brought. These provisions will in frequent cases result in extraordinarily heavy expenses to the ships as well as in inconveniences to ships, captains and often to the seamen themselves.

WASHINGTON, *January 28, 1928.*

ALBANIA

RECOGNITION OF ZOG I, KING OF THE ALBANIANS¹

875.001Zog/7 : Telegram

The Minister in Albania (Hart) to the Secretary of State

TIRANA, August 4, 1928—10 a. m.

[Received 8:10 p. m.]

48. Zogu² to proclaim himself King within 30 days, officially disclosed.

HART

875.001Zog/12 : Telegram

The Acting Secretary of State to the Minister in Albania (Hart)

[Paraphrase]

WASHINGTON, August 28, 1928—6 p. m.

28. Your 48, August 4, 10 a. m. The Department presumes you will continue to keep it advised by cable regarding the proposed change of regime in Albania. The Department also wishes information at the appropriate moment regarding the action your colleagues will take concerning recognition and presence at the coronation.

CASTLE

875.01/282

The Minister in Albania (Hart) to the Secretary of State

No. 510

TIRANA, August 30, 1928.

[Received September 11.]

SIR: Supplemental to my despatch No. 502 of August 28, 1928,³ with reference to the proposed early change of the form of government in Albania, I have the honor to report that the decision to proclaim Ahmet Zogu the King two days hence, or on Saturday, September 1, appears to be final.

¹ For previous correspondence regarding relations with the revolutionary government in Albania, see *Foreign Relations*, 1925, vol. 1, pp. 489 ff.

² Ahmet Zogu, President of Albania.

³ Not printed.

For the last two days the Constituent Assembly has had before it a motion made by Feizi bey Alizotti to give the new monarch the title of "King of the Albanians." Two or three dissenting voices were hissed down and the title is likely to be approved, as a consequence of which Yugoslavia may take abundant time to investigate the inception of this idea.

My Yugoslav colleague said today that the question is one that calls for consideration and that his government will take time to satisfy itself that there is not something sinister about this proposed title which in effect would make the new monarch the king of all Albanians either inside or outside Albania.

The Constituent Assembly, according to the present schedule, will adjourn on Saturday, September 1, after revising the form of government and writing Ahmet Zogu's name into the constitution as King. Ilias Vrioni, Minister for Foreign Affairs, informs me that the King will take the title of Zogu I.

I have [etc.]

CHA[RLES] C. HART

S75.001Zog/14 : Telegram

The Minister in Albania (Hart) to the Secretary of State

[Paraphrase]

TIRANA, September 1, 1928—11 a. m.

[Received September 4—1:09 a. m.]⁴

56. Ahmet Zogu was proclaimed at 9 o'clock this morning as "Zog First, King of the Albanians." It is probable that there will be no coronation and no ceremonies which might raise embarrassing questions for the diplomatic body, acting in unison here. The French Government is indicating an attitude of caution because of the title of "King of the Albanians," while my colleagues from Yugoslavia, Turkey, Germany, and Great Britain, although without instructions, believe their Governments will for the same reason proceed slowly. Today I was confidentially informed that the Italians through Feizi Alizotti and S. Verlaci forced Zogu to change his title when they visited the palace yesterday and asserted they would resign from office and cause a scandal if Zogu persisted in using "King of Albania."

The change of government, in my view, has been brought about in a regular manner and will be accepted by Albania.

HART

⁴ Corrected version received Sept. 8, 8:50 a. m.

875.01/279 : Telegram

The Acting Secretary of State to the Minister in Albania (Hart)

[Paraphrase]

WASHINGTON, September 5, 1928—6 p. m.

30. Your telegram No. 56 received September 4. The Department is in receipt of a note dated Boston, September 3, from the Albanian Minister at Washington, Faïk Konitza, as follows: ⁵

“Acting on instructions from the Ministry of Foreign Affairs at Tirana, I have the honor to bring to your knowledge that the Constitutional Convention has unanimously voted the restoration of the monarchy in Albania and subsequently has elected, on September the 1st, 1928, President Zogu as King of the Albanians.”

You will please ascertain and cable a report of the action so far taken or planned by the Governments of your colleagues in connection with recognizing the new regime in Albania.

CLARK

875.01/280 : Telegram

The Minister in Albania (Hart) to the Secretary of State

[Paraphrase]

TIRANA, September 6, 1928—11 a. m.

[Received 8 p. m.]

58. The Albanian Minister for Foreign Affairs requests the recognition of the Kingdom of Albania in a note which extends the ⁵

“assurance that the Government of His Majesty is solicitous to develop the good relation existing between the two countries and that we will observe in letter and spirit the treaties which have been signed with other states under the Republic. Furthermore the entire efforts of the Royal Government will have as its aim the making of the new Kingdom a factor in the peace of the Balkans. The Government of His Majesty hopes that Your Excellency will have the kindness to employ with his Government all of his influence to obtain new letters accrediting him to His Majesty.”

As the change of regime in Albania is by statute, no question of treaty observance is involved. I am confident that the United States will continue to have the good intentions of the new government as of the former one. Recognition has been granted by Italy, Greece, and Hungary, other Governments not having responded as yet. The King's title is Zog (not Zogu) I.

HART

⁵ Quotation not paraphrased.

875.91/280 : Telegram

*The Secretary of State to the Minister in Albania (Hart)*WASHINGTON, *September 12, 1928—5 p. m.*

35. Your No. 58, September 6, 11 a. m., and Department's 30, September 5, 6 p. m. Upon receipt of this telegram please address a note in the following terms to the Minister for Foreign Affairs:

"My Government has taken note of the action of the Constituent Assembly of Albania in changing the form of the government of Albania to that of a constitutional monarchy and in proclaiming President Ahmed Zogu, 'Zog First, King of the Albanians.' I now take pleasure in informing Your Excellency, under instructions from my Government, that the Government of the United States extends recognition to the Kingdom of Albania, it being understood that the exchange of notes of June 22, 1922, between the United States and Albania⁷ and the provisions of Albanian law enacted in pursuance therewith will continue in force."

The following telegram is being sent today by the President to the King of the Albanians:

"It is with pleasure that I extend to Your Majesty and to the people of Albania congratulations on the occasion of your accession to the throne. The American people join with me in expressing best wishes for Your Majesty's good health and happiness and for the prosperity of Albania."

The Department will communicate with you later concerning new letters of credence.

KELLOGG

875.001Zog/19 : Telegram

King Zog to President Coolidge

[Translation]

TIRANA, *September 14, 1928—1 p. m.*⁸

Deeply moved by the congratulations and the good wishes Your Excellency has so kindly expressed on the occasion of my accession to the throne of Albania, I hasten to present to you the assurance of my most profound gratitude for this act of cordial friendship toward my person and for the Albanian people.

On this occasion it is a pleasure for me to convey to you an expression of the sentiments of gratitude which my people continue to cherish toward the noble people of the United States for the humane

⁷ Date of exchange of notes corrected to read "June 25, 1922," by Department's telegram No. 36, Sept. 13, 6 p. m. The notes are not printed; but see despatch No. 274, June 2, 1924, from the Minister in Albania, *Foreign Relations, 1924*, vol. I, p. 316.

⁸ Date of receipt by the Department not indicated; released to the press on Sept. 20, 1928.

assistance which they gave through the medium of the American Red Cross to my people at a critical time.

Furthermore, the Albanian people are most grateful for the generous hospitality which the great Republic of the United States so liberally extends to the Albanians in the United States, thus bestowing upon them the benefits of American culture and welfare.

Please accept, Excellency, my most sincere good wishes for your happiness and for the greater prosperity of the noble people of the United States.

ZOG

875.01/290

*The Minister in the Kingdom of the Serbs, Croats and Slovenes
(Prince) to the Secretary of State*

No. 493

BELGRADE, *September 20, 1928.*

[Received October 10.]

SIR: I have the honor to report, in connection with the recent recognition by the United States of America of Ahmed Beg Zogu as King of the Albanians, that Mr. Štylla, the Albanian Chargé d'Affaires at Belgrade, called upon me yesterday to express his appreciation of this action on the part of our country. Mr. Štylla emphasized that fact that the United States was the first great power, after Italy, to recognize his new sovereign. He stated that the recognition of the Albanian Kingdom by Italy (a foregone conclusion), Hungary, Bulgaria and Greece was of great importance to the new regime, but that the United States by its very friendly action had gone far toward establishing King Zogu's Government in the eyes of the world.

Mr. Štylla also expressed his gratification at the recognition of his King by Yugoslavia, which followed so closely upon the action of the United States in this matter, that he expressed his belief that there must be some connection between them. I assured him, however, that the United States had had no connection with nor had taken any part in persuading Yugoslavia to take the step of acknowledging the sovereignty of King Zogu. Mr. Štylla then smilingly said, "At least the American example no doubt stimulated Yugoslavia to recognize my King, without awaiting the action of France and England as Mr. Šumenković, the Acting Foreign Minister, sent word to me he would be obliged to do."

It is interesting to note that, although Mr. Šumenković had told me in a recent interview (See the Legation's despatch No. 488 of September 8, 1928)⁹ that he would await the action of France and England before recognizing the new regime at Tirana, he smilingly said to me yesterday, "We decided not to be dependent upon any other

⁹ Not printed.

nation's action in this matter, because we know that, if we wish to maintain good relations with Italy, we must recognize the new Albanian Kingdom sooner or later. Our present act we look upon as a friendly gesture to Italy, whom we have no desire to offend."

I have [etc.]

JOHN DYNELEY PRINCE

875.01/291

The Minister in Albania (Hart) to the Secretary of State

No. 525

TIRANA, September 27, 1928.

[Received October 10.]

SIR: I have the honor to report that in the order named Italy, Greece, Hungary, Uruguay, the United States, Yugoslavia, Bulgaria, France and Great Britain have recognized the Albanian Kingdom.

After recognition by Uruguay a silence reigned for several days which became exceedingly oppressive to King Zog and his advisers. This spell was broken by the receipt on September 13, of President Coolidge's telegram of felicitation. The King sent at once to the Foreign Office for a translator and when the telegram was read to him all of official Tirana began to buzz. At about 4 o'clock in the afternoon of the same day, Ilias Vrioni, Minister for Foreign Affairs, asked an appointment and came to see me a half hour later, exhibiting the original telegram.

His face was lighted and he was in ecstasies. He handed me the telegram to read, as I had to confess that I had received no word from Washington. With all of his joy there was an underlying malice against Great Britain, France and Yugoslavia. He intimated that the American recognition would force the other powers to take notice. Then, as when I presented the formal note of recognition on September 15, he said this was the crowning diplomatic triumph of the new government.

The recognition of Italy he said had no special significance because Italy is an ally of Albania, and while Albania was pleased to have the acknowledgement of Greece and Hungary, their recognition failed to impress the world. "But", he continued, "when the greatest government on earth recognizes, the others will realize that it is time for them to find out what they are going to do."

Vrioni saw to it that everybody in official life in Tirana heard the news of President Coolidge's telegram before the night was over and the following morning representatives of most of the governments which had not recognized came early to see me and verify the report. It seemed to me that there was an atmosphere of gloom hovering over them because they believed that it might upset the consultations which they had heard were going on between Paris, London and Belgrade.

The Yugoslav government recognized on the same day that I delivered the formal note, and it is my opinion that immediately after American recognition the British and French governments suggested that Belgrade act favorably at once and without reservations. My French and British colleagues made no effort to veil the fact that their governments were studying the question of recognition jointly and that the stumbling block up to that time had been the title voted to the new monarch, "King of the Albanians."

While Great Britain and France recognized on September 21, it is my conviction that, if they did not make representations to the Royal Albanian Government, they agreed upon a joint policy to be pursued in the event that any new pacts with Italy are brought to light which threaten to cause another ruction in the Balkans. And I also can say most assuredly that even Italy had become just a little worried over the silence of Great Britain and France. And no doubt was left in my mind that the Italian Legation here was more than gratified when the United States recognized.

A demonstration was ordered to be held in front of the Legation on the evening of September 15. I invited the multitude to come into the Legation court. There were about 1,500 persons, headed by the Government's military band. The band first played the American and then the Albanian anthem and gave vociferous applause at which juncture nothing was left for me to do but make a speech, which I had not intended doing.

The Department will not receive a copy of the speech, which was entirely impromptu, but let it suffice to say that I said nothing that would do any harm. While it is the usual course for many foreigners, official and otherwise, when speaking to the people of this country, to treat the Albanians as children, I have never done that.

My policy adopted at the beginning of my career here was followed once again. I assumed that I was facing an assemblage of several hundred intellectual Babe Ruths and gave everyone of them a base on balls. An Albanian who is a graduate of the American Junior Red Cross School responded in genuine oratory.

The Constituent Assembly, meeting at irregular intervals, continues the work of revamping the Constitution. The Statute creating the monarchy, which is about the only finished product of the Assembly, is made an enclosure herewith.¹⁰ I quote here the reply of the Royal Government to my formal note of recognition:

Mr. Minister:

I have had the honor to receive your letter of the 14th instant by which Your Excellency kindly informed me that the government of

¹⁰ Not printed.

the American Republic had taken note of the resolution of the Constituent Assembly of Albania concerning the establishment of the Monarchical régime in Albania and the elevation to the throne of His Majesty, Zog I, King of the Albanians.

This act of cordial friendship on the part of your honorable Government, recognizing, among the first, the new régime in Albania, is very much appreciated by the Royal Government and the Albanian people, who see in it one more testimonial of the sympathetic sentiments of the great Republic towards Albania.

I pray that Your Excellency be kind enough to interpret to His Government the warmest thanks and the profoundest gratitude of the Royal Government for this amiable action on the part of the Government of the Republic, an action which will add new forces to the cordial relations which exist so happily between our two countries.

I beg Your Excellency to kindly accept the assurances of my very high consideration.

The President of the Council,
Minister for Foreign Affairs, ad interim
K. Kotta

I have [etc.]

CHARLES C. HART

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE
UNITED STATES AND ALBANIA, SIGNED OCTOBER 22, 1928

711.7512A/2 : Telegram

The Secretary of State to the Minister in Albania (Hart)

WASHINGTON, April 24, 1928—6 p. m.

10. The Secretary today handed to the Albanian Minister a draft of a proposed treaty of arbitration between the United States and Albania. The provisions of the draft operate to extend the policy of arbitration enunciated in the Arbitration Convention concluded in 1908 between the United States and several other countries. The language of the draft is identical in effect with that of the arbitration treaties recently signed with France and Italy¹¹ and with the draft arbitration treaty already submitted to other governments in the general program for the extension of these principles.

The Secretary also handed to the Minister a proposed draft of a conciliation treaty modeled after so-called Bryan treaties signed by the United States with many countries in 1913 and 1914.

Full texts are being forwarded in next pouch.¹²

KELLOGG

¹¹ See vol. II, pp. 816 ff. and vol. III, pp. 102 ff.

¹² Drafts not printed; both treaties were signed without change.

711.7512A/10

The Albanian Minister (Konitza) to the Secretary of State[WASHINGTON,] *October 9, 1928.*

SIR: With reference and as a sequel to my letter dated July 31, 1928,¹³ I have the honor to inform you that I have now received instructions to sign both the Treaty of Arbitration and the Treaty of Conciliation, and also the Treaty for the Renunciation of war.¹⁴ I have the honor to enclose a copy of the documents appointing me a Plenipotentiary for the signing of these treaties. I have the Albanian texts ready.

My Government having asked me to pay as soon as possible a visit to Tirana in connection with some internal affairs, I shall wait for the signing of these treaties and I will take them with me and hope to bring the ratifications when I come back on December.

Awaiting your pleasure, I take [etc.]

FAÏK KONITZA

Treaty Series No. 770

*Arbitration Treaty Between the United States of America and Albania, Signed at Washington, October 22, 1928*¹⁵

The President of the United States of America and His Majesty the King of the Albanians

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States of America, and

¹³ Not printed.¹⁴ See pp. 153 ff.¹⁵ In English and Albanian; Albanian text not printed. Ratification advised by the Senate, Dec. 18, 1928 (legislative day of Dec. 17); ratified by the President, Jan. 4, 1929; ratified by Albania, Dec. 27, 1928; ratifications exchanged at Washington, Feb. 12, 1929; proclaimed by the President, Feb. 12, 1929.

His Majesty the King of the Albanians:

Mr. Faik Konitza, Envoy Extraordinary and Minister Plenipotentiary of Albania in the United States of America;

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907,¹⁶ or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Albania in accordance with its constitutional laws.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Albania in accordance with the Covenant of the League of Nations.

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Albania in accordance with its constitutional laws.

¹⁶ *Foreign Relations*, 1907, pt. 2, pp. 1181, 1188.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and Albanian languages, the English text to have authority in case of conflict between the two texts, and hereunto affixed their seals.

Done at Washington the twenty-second day of October in the year one thousand nine hundred and twenty-eight.

FRANK B. KELLOGG [SEAL]

FAÏK KONITZA [SEAL]

Treaty Series No. 771

*Conciliation Treaty Between the United States of America and Albania, Signed at Washington, October 22, 1928*¹⁷

The President of the United States of America and His Majesty the King of the Albanians, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States of America; and

His Majesty the King of the Albanians:

Mr. Faïk Konitza, Envoy Extraordinary and Minister Plenipotentiary of Albania in the United States of America;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I

Any disputes arising between the Government of the United States of America and the Government of Albania, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner

¹⁷ In English and Albanian; Albanian text not printed. Ratification advised by the Senate, Dec. 20, 1928; ratified by the President, Jan. 4, 1929; ratified by Albania, Dec. 27, 1928; ratifications exchanged at Washington, Feb. 12, 1929; proclaimed by the President, Feb. 12, 1929.

prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ARTICLE II

The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by Albania in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and Albanian languages, the English text to have authority in case of conflict between the two texts, and hereunto affixed their seals.

Done at Washington the twenty-second day of October, in the year one thousand nine hundred and twenty-eight.

FRANK B. KELLOGG [SEAL]

FAÏK KONITZA [SEAL]

AUSTRIA

NEGOTIATIONS RESPECTING SUBORDINATION OF THE AUSTRIAN RELIEF LOAN TO A PROPOSED NEW AUSTRIAN LOAN;¹ AUTHORIZATION OF A DEBT AGREEMENT

863.51 Relief Credits/9

The Economic Adviser (Young) to the Secretary of State

[WASHINGTON,] December 29, 1927.

MR. SECRETARY: The New York *Journal of Commerce* of December 23 stated that "failure of Washington to approve the protocols under which the new Austrian \$100,000,000 international reconstruction loan is to be issued is holding up the flotation of the bonds."

Since it is possible that similar statements may be made in other papers, the following brief summary of the situation is furnished for your information:

The Austrian Government desires to float a loan of \$100,000,000 for continuing the program of reconstruction by means of railway construction and other public works. The project has received the approval of the Committee of the States which guaranteed the international Austrian loan floated in 1923. Under the Lodge Resolution,² the Secretary of the Treasury extended until 1943 the maturity of the \$25,000,000 relief bond representing advances made immediately after the war. He also raised the liens which that bond enjoys to the extent necessary to permit the reconstruction loan of 1923.

Several weeks ago the Austrian Government asked the United States to extend the maturity of the relief bond until 1957 and also to release the liens in favor of the proposed new loan. The Secretary of the Treasury submitted to the Attorney General the question of his authority, and the ruling was that no further authority to act remained under the terms of the Lodge Resolution. The Austrian Government was so informed.

The Austrian Government has now proposed in principle to make an agreement for payment of the relief bond in 25 years beginning 1943. A similar proposal has been made to the other creditor governments. It is now learned informally that the International Relief Bonds Committee is at the present time meeting in London. At the invitation of that Committee, this Government at one time had ar-

¹ Continued from *Foreign Relations*, 1927, vol. I, pp. 442-475.

² *Ibid.*, 1922, vol. I, p. 618; also 42 Stat. 491.

ranged for a secretary of the Embassy at London to attend its meetings to keep the Department informed. We have not, however, been invited to participate in the present meetings.

The most recent Austrian proposal is being referred to the Treasury for comment.

In case any question is raised by the press, it might be well to state that it is not correct to say that the United States is holding up the matter. You could say that you understand Austria desires a loan of \$100,000,000; that the matter is very complicated because of the liens of the relief bonds and the provisions of the treaty regarding Austrian reparations (whose amount has not been fixed); that various plans have been discussed for arranging the loan; and that you have not been advised that the other governments have accepted any particular plan covering these matters, and that the Department has not been informed that the Reparation Commission has taken any action in the matter with reference to the reparation claim against Austria.

It is my opinion that it would be desirable now to make a proper agreement covering the relief indebtedness of Austria. I should also like to see an arrangement made whereby the Executive Branch of our Government would not have to continue protecting liens which affect Austrian assets and revenues, since we have no interest in the situation which warrants maintaining such a degree of control over Austrian finances. Our position would be the more embarrassing if the other Governments should be willing to take action to facilitate a further reconstruction loan by Austria, but the Executive of the United States lacked authority to do so. I think we should have in mind this possibility, although I see nothing specific to be done until the situation develops further.

We have not had any inquiries from bankers as to our attitude on the proposed loan, which obviously is only at the preliminary stage, though J. P. Morgan and Company have indicated that they are interested in it.

A[RTHUR] N. Y[OUNG]

462.00 R 29/4221 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Extract]

PARIS, January 14, 1928—7 p. m.

[Received January 15—2:30 p. m.]

13. Reparation 72. At Reparation Commission meeting today:

(4) Commission took note of the issue of Austrian renewal bonds to replace the relief bonds of 1920.

(5) Took note of the amounts fixed in the restitution agreements concluded between the Austrian and certain Allied governments but declared that in so doing, having regard to the terms of the Austrian relief bonds, its decision must not imply an invitation to the Austrian Government to discharge these liabilities save by preliminary agreement with the governments holding relief bonds. Reservations, however, were made by various delegations which would have the effect of authorizing in fact certain payments under the restitution agreements. I entered a reserve as to the position of the United States toward these reservations. The Commission finally decided to communicate its decision to the Austrian Government and the relief bond holding countries, with the suggestion that they reach agreement as to the payments covered by the reservations. The payments involved are not of considerable importance.

(6) As regards the proposed new Austrian loan, the Commission decided that "It will be willing, in principle and to the extent which it may deem necessary, to ensure the service of the loan to give favorable consideration to an application from the Austrian Government for an exception in favor of the said contemplated loan under Article 197 of the Treaty of St. Germain³ of such revenues of Austria as may hereafter be approved by Reparation Commission from the first charge for treaty obligations created by that article." In these matters I found it advisable to make a statement based on the first part of paragraph two of the Department's Reparation 37.⁴

(8) Date [of] next meeting February 18.

WHITEHOUSE

863.51 Relief Credits/12

The Austrian Minister (Prochnik) to the Secretary of State

No. 7

WASHINGTON, January 16, 1928.

EXCELLENCY: Pursuing my previous notes and verbal discussions in matters relating to the intended Austrian investment-loan and its chief rerequisite [*sic*] i. e. deferment of lien held by various States for relief credits, I have the honor to notify Your Excellency that the Reparations Commission as well as all the other creditor countries (with the exception of the United States) have, as I just was advised by my Government, deferred their lien for a period of 30 years beginning from the issue of the new loan.

³ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3149, 3216.

⁴ Not printed; it stated that an enabling act of Congress would be necessary to effect the actions requested regarding the suspension of the lien and the postponement of the payments due for the relief credit bond. (File No. 863.51 Relief Credits/5.)

At the same time negotiations are pending for the settlement (funding) of the relief credits on a proposed scale which I have communicated to the economic adviser of the State Department, Mr. Young, for further consideration by Your Excellency's Government.

Negotiations for the loan could now proceed without further obstruction, if the Government of the United States, with authorization by Congress, would likewise defer their lien for a period of 30 years beginning from the issue of the said loan.

I just received a cable from my Government instructing me to petition Your Excellency's Government to recommend to Congress with a least possible delay a bill authorizing the above mentioned deferment.

Your Excellency will readily see that a debt settlement by itself is a matter requiring considerable time for its finalization and being apt to meet with various causes of delay, the more so if, like in our case, an agreement on one and the same base is to be reached with a number of different countries.

My Government would, therefore, appreciate a technically separated treatment of these two questions (deferment of lien and debt settlement), although materially there may exist some relations between them.

Another difficulty in obtaining a timely solution in the case of deferment of lien by the United States lies in the necessity of parliamentary action. The failure of securing such an act by Congress before its adjournment would spell doom for the investment loan intended by the Austrian Federal Government to be used for a general improvement of the whole economic conditions of the Country.

Submitting the aforementioned request of my Government to Your Excellency's favorable consideration I have the honor to ask for a notification at the earliest possible convenience as to Your Government's intentions in regard to the same.

Accept [etc.]

EDGAR PROCHNIK

863.51 M 82/4 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

[Paraphrase]

VIENNA, *January 19, 1928—1 p. m.*

[Received 3:34 p. m.]

4. Referring to the Department's No. 633, January 5.⁵ The Austrian Minister at Washington has apparently reported that obstacles

⁵Not printed. A letter dated Dec. 29, 1927, from R. C. Leffingwell of J. P. Morgan and Company, regarding discussions in progress between the Austrian Government and the European Relief Creditor States, was enclosed; see *Foreign Relations*, 1927, vol. I, p. 473.

exist, for Chancellor Seipel is uneasy about Congress delaying passage of a resolution. The Chancellor hopes the United States Government is convinced of the Austrian Government's earnest attempt to effect a settlement of the relief-credit debts and, consequently, will be satisfied with expediting action without awaiting a final settlement by agreement, which, involving so many countries, may require some months. The Reparation Commission having now given its approval, only favorable action by the United States is still needed for a consummation of the loan negotiations. Any protracted delay would cause great embarrassment and imperil the loan. I have been asked by the Chancellor to cable to this effect. The next pouch will have a further report with documents.

WASHBURN

863.51 M 82/4 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

[Paraphrase]

WASHINGTON, *January 21, 1928—6 p. m.*

5. Referring to your 4, January 19, 1 p. m. The Austrian proposal is being carefully considered by the United States Government, and everything possible to expedite a decision will be done by the Department. However, it will be appreciated that the Executive is in no position—particularly if, as the Austrian Government wishes, the deferment of lien is to be considered independently of the funding of relief credits—to make Congress a recommendation which is based only upon such ex parte data as submitted by the Austrian Government to the Reparation Commission. A necessary prerequisite to a decision on the Austrian request to approach Congress would be an independent examination by this Government of the proposed loan's bearing upon Austria's economic and financial status.

This has been informally stated to the Austrian Minister, who has been told that, if his Government wishes to supply any data in addition to that already furnished, the United States Government would welcome such.

KELLOGG

863.51 M 82/5

The Minister in Austria (Washburn) to the Secretary of State

No. 1692

VIENNA, *January 23, 1928.*

[Received February 10.]

SIR: I have the honor to acknowledge the receipt of the Department's telegram No. 5 of Saturday the 21st instant, 6 p. m., in relation

to the proposed Austrian loan. Several groups are badly garbled, but I think I divine the sense of the communication.

Mr. F. Carrington Weems, on behalf of the firm of J. P. Morgan & Co., has been in Vienna for some days collecting data for his principals. He is well equipped for his task, having been here at one time for several months familiarizing himself with the Austrian situation when Zimmermann was Commissioner General. I have talked with the Chancellor this morning, and he is giving instructions to have duplicates of the material which the Government is supplying to Weems furnished to me. The Morgan representative, with whom I am in frequent touch, is making, together with an associate, a very thoroughgoing investigation of Austria's financial status, and I hope to be able presently to place at the disposal of the Department the substance of the data which he is collecting from various sources.

Supplementing my telegram No. 4 of January 19, 1 p. m., I am enclosing herewith:

(1) A copy in the German original, together with a translation, of the Government's revised proposal to the International Relief Committee.⁶ This proposal, I am advised, was submitted by the Austrian Minister Franckenstein in London on Friday or Saturday of last week. I am aware that the substance of it has been communicated to Minister Prochnik, and is very likely already in the Department's possession. As originally submitted, there was a typographical error. The sentence, "The present value is, reckoned at 5%, in the first case (25 instalments) 402, in the second case (40 instalments) 339 million Schillings" should read, "The present value is, reckoned at 5%, in the first case (25 instalments) 339, in the second case (40 instalments) 402 million Schillings". Prochnik has, I believe, been advised of this error.

(2) A copy in the German original, together with a translation, of the proposal to the American Government, which was likewise transmitted to Prochnik.⁷

(3) A copy of the resolution of approval adopted by the Reparations Commission in Paris on the 14th instant.⁸

If my despatch No. 1664 of the 28th ultimo⁹ be read in connection with Exhibit 1, it will be appreciated that the revised offer of the Austrian Government to the International Relief Committee is in the nature of a compromise offer. The Austrian Government in its memorandum points out that the suggestion of the International Relief Committee that 1250 million Schillings be paid in 40 annual instalments beginning in 1929 would mean a present value of 402 million Schillings, whereas if 1250 million Schillings were paid in 25 annual instalments beginning 1943 (which Austria would only be obligated

⁶ See paragraphs (2) and (3) of the answer of the Austrian Government to the Relief Bonds Committee, Jan. 14, p. 866.

⁷ *Post*, p. 868.

⁸ See paragraph (6) of telegram No. 13, Jan. 14, 7 p. m., from the Chargé in France, p. 859.

⁹ *Foreign Relations*, 1927, vol. 1, p. 465.

to do) it would mean a present value of 339 million Schillings. In other words, if 339 million Schillings were set apart at the present time, it would suffice to fund the Austrian Relief Debt in 25 annual instalments beginning in 1943. The Austrian Government reasons that it should not be penalized for beginning to make advance payments in 1929, and as a counter-proposal, as the Department will perceive from Exhibit 1, it offers to pay 1162.5 million Schillings in 25 annual instalments beginning in 1943, reserving to itself the right to pay from 1929 on the basis indicated. It proposes, however, to adopt the latter alternative and figures that "the present value of these payments amounts in both alternatives to 315 million Schillings". This 315 million Schillings, it is thought, measurably approximates the 339 million Schillings which the Austrian Government would be obligated to pay from 1943 on the basis of the 1250 million Schilling proposal.

The offer to the American Government, of course, is calculated upon the same basis. Dr. Schüller,¹⁰ who is now in Rome for some days, told me on the eve of his departure last week that the revised Austrian proposal is between the Italian debt settlement and the proposed French debt settlement with the United States. The Hungarian and Yugoslav settlements with the United States, he asserts, were for much smaller sums, the Austrian debt being relatively higher.

I have [etc.]

ALBERT H. WASHBURN

863.51 Relief Credits/18

The Austrian Minister (Prochnik) to the Secretary of State

No. 11/R

WASHINGTON, January 28, 1928.

EXCELLENCY: Enclosed I have the honor to submit to Your Excellency copy of the correspondence passed between the Austrian Government and the Relief Committee in London in regard to the proposed settlement of Relief credits extended to my country, viz:

- A. Original proposal of the Austrian Government,
- B. Counter proposal of the Relief Committee,
- C. Answer of my Government to B.

In addition I beg to submit to Your Excellency a schedule of payments prepared for the American share in accordance with the last propositions of the Austrian Federal Government (sub C.).

These figures I have previously brought to the attention of Your Dr. Young.

Accept [etc.]

EDGAR PROCHNIK

¹⁰ Dr. Richard Schüller, Sektionschef, Austrian Foreign Office.

[Enclosure 1—Aide-mémoire]

*Original Proposal Made by Austrian Government*¹¹

The Austrian Government undertakes the obligation of paying through 25 years beginning from 1943 40 million schillings annually[,] i. e.[,] a total of 1000 million schillings.

The Austrian Government reserves the right to pay from 1929 on during 5 years 10 million sch. annually, during the following 10 years 15 million sch. per annum, these sums with 8% compound interest until 1943 to be deducted from the total of 1000 [million] sch.

After having paid off in aforesaid way 200 million sch. prior to 1943 the Government would then pay 26.24 million sch. for the ensuing 25 years.

[Enclosure 2]

Counterproposal Made by the Relief Bonds Committee

AIDE-MÉMOIRE

1. The International Relief Bonds Committee[,] representing the Governments of Denmark, France, Great Britain, Holland, Italy, Norway, Sweden and Switzerland, welcome the proposal of the Austrian Government for the final settlement of their Relief Debts outlined in the *Aide-Memoire* handed to the Committee on the 12th December 1927,¹² as they are convinced that it will be in the interests both of Austria and of the Creditor Governments that a definitive settlement of this question should be reached.

2. The Committee accept in principle the proposal that the Relief Debts should be funded by means of an arrangement under which the Austrian Government would undertake the obligation of paying, in settlement of the debts, 25 annuities from 1943 onwards, but would at the same time reserve the right to make payments from 1929 onwards, the sums paid before 1943, together with interest thereon, being in that case deducted from the payments from 1943 onward which the Austrian Government would undertake the obligation to make. The Committee accept this basis of settlement on the understanding that this arrangement will not give rise to any objection on the part of the Trustees of the League Loan.

3. The total amount of the Relief Debts (including that due to the United States Government) as at the 1st January 1928, is approximately 1,250 million schillings and the Committee are not disposed to recommend their respective Governments to accept any settlement less

¹¹ Submitted Dec. 12, 1927; see despatch No. 1604, Dec. 28, 1927, from the Minister in Austria, *Foreign Relations*, 1927, vol. I, p. 465.

¹² *Supra*.

favourable than the following, to wit that the Austrian Government should undertake the obligation of paying from 1943 onwards during 25 years, 50 million schillings annually or a total of 1,250 million schillings, reserving the right to pay from 1929 during 5 years (1929–1933 inclusive) 10 million schillings annually, during the subsequent 10 years (1934–43 inclusive) 20 million schillings annually, and during the subsequent 25 years (1944–1968 inclusive) 35 million schillings annually.

4. The annuities agreed upon would be denominated in gold schillings and would be payable on the 1st January of each year. The share of the annuities due to each Creditor Government would be proportionate to the amount of the debt to that Government as at 1st January 1928. The amount so calculated would be payable at the option of such Government in Austrian schillings or United States of America dollars or sterling or in the national currency of such Creditor Government at the current rate of exchange.

5. The Relief Debts will retain their full priority over Reparations, until they have been finally settled and discharged in accordance with the arrangements proposed. The agreement for the settlement of the Relief Debts will be submitted to the Reparation Commission for their approval and would become definitive on such approval being obtained.

6. The Committee would be glad to receive a revised proposal from the Austrian Government on the above lines.

[Enclosure 3]

Answer of the Austrian Federal Government to the Relief Bonds Committee, dated Vienna, January 14, 1928

The Austrian Federal Government, on their part too led by the conviction that it will be in the interests both of the creditor Governments and of Austria that a definitive settlement of the Relief Debts should be reached, have taken note, with thanks, of the consent given in principle by the International Relief Bonds Committee, to the proposal made by the Federal Government of an alternative plan for the payment of the Relief Debts. The Federal Government have already received a letter from Messrs. J. P. Morgan & Co. according to which the said banking house have to make no objections to the present plan of payments as seen from the point of view of the League Loan prospectus. Moreover, the Federal Government have addressed a letter to the Trustees of the League Loan asking them whether any objections will be raised by them to the said proposals. As soon as an answer will be received from the Trustees it will be transmitted to the International Relief Bonds Committee. To the proposals, as laid down in the *Aide-Memoire* of the International Relief Bonds

Committee, the Federal Government have the honour to reply as follows:

1. In order to exclude any misunderstanding the Federal Government beg to state beforehand that by making their offer of paying certain amounts denominated in Austrian schillings, it was by no means their intention to turn the debts hitherto denominated in various currencies into debts denominated in schillings. The offer was made in the schilling currency for the reason only to reduce for the purpose of the present negotiations and for the sake of calculation, the various currencies to a common denominator and to give hereby the clearest and most lucid possible idea of the plan of payment, which otherwise would have had to be made for each currency separately or expressed in percentage. It is a matter of course that after an agreement had been reached on the principles of the plan of payment, payment, in accordance with the plan, in respect of the debts to the various States was to be made in original currencies of the respective debts.

Now, a completely new arrangement in respect of the character as regards currency, of the present obligations is provided for in point 4 of the *Aide-Mémoire*. In place of the present obligations denominated in the various respective currencies, the obligation towards all the creditor Governments is to come to pay in gold. This would mean that Austria would have to secure the creditor Governments against the risk of fluctuations, if any, of exchange. It is difficult for the Federal Government to see which is the basis the Relief Bonds Committee wish to take in making this demand; they think that it would be impossible for them to advocate in the face of public opinion of their country a concession in this direction.

2. Concerning the plan of payment proposed by the International Relief Bonds Committee the Federal Government have the honour to make the following statement: The International Relief Bonds Committee have informed the Austrian Federal Government that they accept in principle their proposal. They start, however, from the supposition that from 1943 onward up to 1968 1250 million schillings must be paid in all, while the proposal of the Federal Government provides a total payment from 1943 to 1968 of 1000 million schillings. In the proposal of the International Relief Bonds Committee the right would be reserved to the Austrian Government to begin the payment of annuities as early as 1929 and to pay during the first 5 years 10 million schillings annually, during the subsequent 10 years 20 million schillings annually, and during the last 25 years 35 million schillings annually. The Federal Government must point out, that the 25 annuities (1943-1968) provided for in the proposal of the International Relief Bonds Committee, very considerably differ as regards their present-day value, from the present-day value of the 40 annuities provided for in the proposal of the International Relief Bonds Committee. Calculated at 5% the present-day value is 339 million schillings in the former case (25 annuities) and 402 million schillings in the latter (40 annuities). A most unwelcome situation would arise therefrom, for under such circumstances it would be too difficult for the Federal Government to advocate in parliament the making of payments in anticipation to begin from 1929. Naturally the alternative proposal must be constructed so as to avoid that

the annuities from 1929 onward will represent a higher present-day value than does the plan of payments beginning from 1943. It is true that also the proposal made by the Federal Government on 12. December last,¹³ represented a higher present-day value for the plan of payments beginning in 1929; this was caused by the fact, that the Federal Government is on the standpoint that with payments beginning from 1943 they intended to increase the principal only by the amount of 8% compound interest on the payments which would have been made in anticipation. We realize that it was a mistake to make a proposal which in the two alternatives would have represented different present-day values of the annuities. In order to remove this defect which was contained also in the first Austrian proposal, and to have to a certain extent regard to the wish of the International Relief Bonds Committee that the annuities of the second period (1934-1943) as proposed by the Austrian Government should be increased, they have the honour to submit the following new proposal:

3. Austria undertakes the obligation of paying from 1943 onward a total sum of 1162,5 million schillings in 25 equal annuities of 46,5 million schillings and reserves the right to pay from 1929 as follows: 1929-1933 5 annuities of 10; 1934-1943 10 annuities of 16; 1944-1968 25 annuities of 25,84 million schillings each. The present-day value of these payments is in both alternatives 315 million schillings. If this present-day value is compared with the present-day value (339 million schillings) of the payment from 1943 onward of 1250 million schillings as proposed by the International Relief Bonds Committee, it can be seen that the Federal Government are meeting the wishes of the International Relief Bonds Committee in a high degree.

For reason of simplicity the annuities are expressed in schillings also in the present proposal. But the Austrian Government are interpreting the proposal as meaning that the payments to be made to the several States in the sense expressed above in the paragraph of point 1, shall be made in the currencies in which the debts were contracted; this principle will have to be followed when the definitive text will be drawn up.

[Enclosure 4]

Proposal for the Funding of Austrian Relief Debts to the United States of America

Austria undertakes to pay, within 25 years beginning from 1943[,] a total of \$32,977,250, i. e.:

24 instalments of \$1,319,000,
one instalment of \$1,321,250.

Austria reserves the right to make instead of the above stated instalments the following payments, beginning from January 1st 1929:

5 years \$284,000 each;
10 years \$455,000 each;
24 years \$735,000 each;
1 year \$729,000.

¹³ Enclosure 1, p. 865.

The Department of State to the Austrian Legation

MEMORANDUM

On January 19, 1928, the Austrian Minister was informally advised that it had been decided by the competent branches of the Government of the United States that further study was necessary in relation to the economic and financial questions presented by reason of the request of the Austrian Government that the United States Government recommend to Congress the enactment of legislation authorizing the deferment for thirty years of the lien of the United States Government on assets which it is desired to pledge as security for the contemplated new Austrian loan. The Minister was also informally advised that the Department of State would be glad to receive and consider any data bearing on these questions that might be available in addition to the data in the possession of the Government of the United States, the nature of which was then outlined to the Minister.

Careful and earnest study has been made of the data available in the files of the Governmental Departments concerned, and it has been found that there is a lack of adequate data bearing upon some of the principal aspects of the proposed loan.

The Committee of Guarantor States, in its letter of October 12, 1927, to the Austrian Minister of Finance,¹⁴ stated that it had been informed that it was the intention of the Austrian Government to apply to the proposed loan the principle recommended in 1924 by the Financial Committee of the League of Nations that revenue-producing undertakings such as the post, telegraphs and telephones, and the railways, should recoup to the Austrian Treasury the charges for interest and amortization on such part of the proceeds of the loan as may be allocated to such undertakings. Data available to this Government do not give adequate information as to the basis the Austrian Government has for believing that the proposed loan would lead to the recoupment of amounts paid for service of the loan.

With respect to the Austrian postal, telegraph and telephone administration, the Department finds in its files a statement that the estimated deficit in 1927 was 80,000,000 schillings. It is desired to know whether this figure is exact, and also what estimate has been made as to the effect of the loan in removing the deficit and creating net revenues sufficient to carry the interest and amortization of the part of the loan proceeds that would be applied to investment in those services.

With respect to the Austrian Federal Railways, the only available report is that for the year 1925, which was published in June, 1927. It is understood that the budget of the Austrian Government for 1928

¹⁴ *Foreign Relations*, 1927, vol. I, p. 452.

provides for an appropriation of 26,400,000 schillings to cover the excess of current expenditure over current revenues of the Federal Railways. Of 414,000,000 schillings total capital investment in the Federal Railways which it is stated will be required from 1928 to 1932, it is indicated that 190,000,000 schillings are required for electrification. Reports such as that in the Vienna correspondence in the *London Economist* of December 24, 1927, refer to doubts as to the economic wisdom of electrification of the Federal Railways in view of the present coal situation. The Department of State would be glad to receive such data as are available bearing upon the desirability of electrification, taking particular account of the current experience as to electrification in Austria. Such pertinent data as are available are also desired as to the "urgently necessary station equipment and other capital outlay" to which the remaining 224,000,000 schillings investment in the Federal Railways would be devoted, and as to the productivity of such investment.

With respect to the contemplated investment under the heads "other railways and tobacco", it is stated that "the demands are of the same kind as the actual requirements of the last few years". The Department of State would be glad to receive further data regarding these requirements and also regarding the productivity of the investment.

Since no information is available regarding "other capital outlay" of the "central administration" and "monopolies and other concerns", the Department of State would be glad to have further data regarding this proposed investment and its productivity.

Likewise, the Department of State would welcome the receipt of any other data which the Austrian Government may care to furnish regarding the desirability and the economic effects of the contemplated loan.

WASHINGTON, *February 2, 1928.*

863.51 M 82/6

The Minister in Austria (Washburn) to the Secretary of State

No. 1704

VIENNA, *February 3, 1928.*

[Received February 23.]

SIR: Supplementing and confirming my despatch No. 1692 of the 23rd ultimo, I now have the honor to transmit, in quadruplicate, the following documents:¹⁵

(1) A table showing the public revenues derived from taxes and fees and monopolies for the years 1923, 1924, 1925, 1926 and 1927, according to the reform plan of the League of Nations,

¹⁵ Enclosures not printed.

(2) Five tables showing in more detail by months the aforesaid revenues in accordance with the statements made in the foot-note of Exhibit 1.

(3) Statement explanatory of the above tables.

(4) A table showing in detail the current account of federal administration, both as to expenditures and receipts for the year 1927, according to the League Plan.

(5) Two statements explanatory of the foregoing table.

(6) Statement giving information regarding the balance in hand of the Austrian Federal Government on December 31, 1927.

(7) Statement showing the status of the debts of the Republic of Austria affected by the depreciation of the currency.

(8) Statement showing the application of the League of Nations Loan as of December 31, 1927.

The foregoing tables, it will be perceived, are in millions of Schillings, and comprise the documents transmitted by the Austrian Federal Ministry for Finance to Mr. Weems (referred to in my despatch under reference) for the confidential information of the Morgan firm. Dr. Kienböck, the Federal Minister for Finance, in talking to me stressed the fact that much of the information was confidential, and I promised him that it would be so regarded. He was good enough to supply me with additional copies upon my statement that such copies would be useful for possible distribution among the various interested departments of my government.

Mr. Weems left for New York on Thursday and he came to see me on the eve of his departure. His task here had been, he said, to articulate the various statements and statistical figures submitted to him. Wherever he and his assistant detected a discrepancy, an explanation was asked from the different departments, usually orally. Inasmuch as the major part of the new projected loan was to be expended in railway, telephone and telegraph developments (the two latter branches are under the postal administration), he had concentrated his attention mainly upon the condition of these three public utilities, which are all government owned. Weems told me that he had found the railways and the administration of the posts in a better condition than he had expected. Since he is cautious and not given to optimism, I attach importance to this statement. He has had some training in the railway field, and his conclusions here are entitled to weight. Altogether Weems found a substantial improvement as compared with the general situation when he was here two or three years ago. The agricultural development had been, he thought, quite phenomenal and the banks and government-owned public utilities were in a stronger position. The improvement in the industrial field had been less marked, though even here there were exceptions. The paper industry was more prosperous than it had been before the war, and the Austrian iron and steel

industry was doing fairly well, due no doubt largely to its participation in the European cartel.

There is one fact to be kept in mind in passing upon the condition of Austrian public utilities. It is always possible that the Government may have to yield to pressure for higher wages and greater expenditures to such a degree as to throw all estimates out of alignment. There is some reason for the conclusion that the Austrian railway system is no worse off certainly than that of any other Succession State. My own belief is that the government ownership and control of all these systems is a necessary evil. The political obstacles in the way of private leasing even are too great to be overcome, though it is generally recognized that such action would greatly curtail the overhead charges. The Director of Posts, Hocheisel, is a highly trained and efficient bureaucrat of the old school, hard-headed and well equipped to deal with all proposals disturbing his budgetary balance.

I have [etc.]

ALBERT H. WASHBURN

863.51 Relief Credits/25a : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

[Paraphrase]

WASHINGTON, February 4, 1928—3 p. m.

15. Please see Sir Arthur Salter¹⁰ as soon as you can; talk over, informally and discreetly, the situation described below; and then cable your report:

The Austrian Government has requested the deferment of relief credit liens by the United States in order to permit the raising of a \$100,000,000 loan. Other creditors and the Reparation Commission have already taken such action. Before taking steps, however, to recommend the necessary legislation, the Department felt that there should be undertaken an independent investigation of the economic and financial aspects of the proposed loan. In the opinion of experts who have studied the data submitted by the Austrian Government (which, it is understood, submitted the same also to other Governments) and other available data in Washington, a good case has not been made out by Austria, no matter what the merits of the proposition may be. A memorandum has been furnished the Austrian Minister with certain inquiries as to the loan's productivity and its consonance with the principle recommended by the League's Financial Committee in 1924 that undertakings producing revenue should recoup

¹⁰ Director of the economic and financial section, Secretariat of the League of Nations.

their share of interest and amortization on the loan proceeds which have been allocated to them. It is asked how it is estimated that surpluses will be converted from the present deficits of these undertakings.

The Department, in principle, wishes to give the most sympathetic attention to the Austrian request, especially as other creditors than the United States have acted, but unless at least a good prima facie case is made out for the loan there is obviously little chance of Congress acting favorably.

Any informal, confidential estimate of the situation would be welcomed for its guidance by the Department, which desires to know particularly whether the League's Financial Committee has made any study of or arrived at any conclusion concerning the proposed loan and whether the Committee has any special reason for not interesting itself in this proposal as it did in the 1923 case.

The above is to be repeated to the Legation at Vienna for its confidential information; so also your reply when it is ready. Mail the texts to the Embassies at London and Paris. The Legation in Austria is being instructed to keep you informed.

KELLOGG

863.51 Relief Credits/26

The Austrian Minister (Prochnik) to the Secretary of State

No. 18/R

WASHINGTON, February 7, 1928.

EXCELLENCY: On February second, a memorandum embracing a number of items in which further information regarding the use and productivity of the contemplated Austrian loan is sought by the Department of State, was handed to me by your Mr. Young.¹⁷ A copy thereof, as I understand, has in the meantime been cabled to Mr. Washburn for transmission to the Federal Chancellery, Department of Foreign Affairs.

I do not doubt that my Government will, in due course, be in a position to furnish Your Excellency with such data which will thoroughly, and in a satisfactory way, enlighten, as to the merits of the project in question.

It does not behove me nor am I competent to anticipate, by entering into the details of the problem, the answer of my Government to Your Excellency's memorandum, the less so as some questions are involved which still require closer study. It may not have escaped Your Excellency's attention, that the Austrian Parliament, for instance, just recently passed a resolution, providing for a thorough reexamination, by a special committee of uninterested experts, of the various reports submitted to the Government in

¹⁷ *Ante*, p. 869.

regard to electrification of railroads, a measure, which to a certain extent created the wrong impression abroad that Austria had practically dropped said plan. I am able to state that this is not the case. On the contrary, the harnessing of my country's abundant waterpower and its use for running railroads has by no means been abandoned, although the aforementioned investigation concerning the productiveness of electrification on certain lines ordered by Parliament, may or may not result in a temporary cessation of further activities, in a pause, during which the effects of the work so far accomplished may be watched, and the experience thereby gained applied to the continuation of the electrification project.

In whatever findings these studies may result, the necessity and principal purpose of the new loan, a general overhauling, repairing and modernization of the country's whole communication system during the next five years is so outstanding that it fairly overshadows all other considerations of minor consequence.

The most valuable asset of the very few left to Austria by the Peace Treaty is undoubtedly her geographical and consequently commercial position. Austria is compelled to make the utmost use thereof, if she intends to assure her future. There is no other way of accomplishing this task if not by keeping her railways, roads and other means of communication up to date. Who could dispute the fact that lagging in this respect would mean a gradual elimination of my country from the main system of European traffic, a slow but sure death.

The War left the Austrian railways, roads, telegraphs and telephones in a deplorable condition. Immediate even though insufficient repairs were urgently needed, requiring sums which to a small portion only could be spared from the proceeds of the League of Nations loan. The rest had to be born by appropriations provided for in the ordinary budget, i. e. by overburdening the present generation with a task which would yield its fruit to a more remote posterity. If the contemplated loan should fail, the Austrian people would face the following alternatives: or [*either*] to adhere to the present method and ruin business and the whole economic outlook by an excessive tax burden, or to drop the entire project for which the loan is sought and equally meet their doom.

There is an other point to be seriously considered from a general standpoint, i. e. that no constructive, systematic and economic plan could be adopted without having in advance secured the funds necessary for the execution of the whole.

The aforementioned facts alone seem to have sufficient weight in supporting an opinion generally shared by our creditor nations, that an investment loan is most essential to Austria's reconstruction, regardless what the outcome of the investigations into the details connected

therewith may be. I shall not attempt to solicit Your Excellency's final decision concerning the advisability of an American participation in said loan, so long as you are not fully convinced that the same is not incompatible with the protection of prospective American investors and with the general policy laid down by your Government in regard to foreign loans and investments.

There are strong reasons for apprehension however that more than usual delay may be experienced (the more so as the investigations under way on both sides seem to assume the form of a painstaking scrutiny) and that Congress may close its session before termination of the inquiry, or, at least, enter into such an advanced period when pressure of other urgent business will exclude the passing of a bill dealing with deferment of lien. In that case Austrian reconstruction would come to a standstill before a mere technical obstacle, even if the results of the examinations under way may consequently prove satisfactory.

On behalf of my Government I, therefore, entreat Your Excellency to kindly cause a legislative measure authorizing deferment of lien to be urgently recommended to Congress and to postpone judgment as to the merits of the Austrian loan to a time when the question of American participation comes up for decision. In complying with this petition Your Excellency by no means could jeopardize American interests as an authorization by Congress does not necessarily entail an obligation on the part of the Secretary of the Treasury to actually defer the lien, if he should not see fit to do so and, as even after deferment of lien the Department of State, as we understand, is in a position to effectively dissuade American capital from participation.

Briefly recapitulating my arguments I beg to request Your Excellency to take the following points into a favorable consideration: 1.) The undisputed necessity of an investment loan for Austria; 2.) The intention of having this loan floated in Europe and not only in the United States; 3.) The fact that a failure on the part of the United States in joining all our other creditors in the deferment of lien would kill the entire loan project, not only here but also in Europe; 4.) The deferment of lien by the United States does not necessitate American participation; 5.) American participation could be decided upon after deferment of lien and after all data having a bearing on this decision will be available; 6.) The very short time left for bringing an appropriate legislative measure before Congress with some chance for enactment; 7.) The nature of the investigations under way which is apt to further shorten the available time limit.

Your Excellency would greatly oblige me by enabling me within the next [*near*] future to bring a favorable decision to the notice of my Government.

Accept [etc.]

EDGAR PROCHNIK

863.51 Relief Credits/27 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

[Paraphrase]

BERNE, *February 9, 1928—5 p. m.*

[Received 5:09 p. m.]

10. Referring to your 15, February 4, 3 p. m. Sir Arthur Salter being in London, I consulted Felkin, acting head of the League's financial section.

(1) This explains why the financial committee does not interest itself in the present loan: Acting on Austria's petition to the League Council, the committee in 1923 set up the machinery handling the original reconstruction loan and, in accord with the League's policy, does not take any further direct interest in the proceedings unless there is (a) another Austrian Government appeal to the Council, or (b) such action by the Austrian Government as might jeopardize seriously the country's entire financial structure.

(2) A confidential estimate of the situation: I am told by Felkin that the Austrian negotiator, Dr. Schüller, discussed the proposed loan informally and in advance with Sir Arthur Salter, who favors it. But, owing to the reasons explained above, the committee has not studied it exhaustively and has no official information about it. Their only data came from Austrian sources and undoubtedly are in the Department's possession.

Felkin also pointed out the Austrian Government's desire for approximately 900,000,000 schillings to invest in permanent revenue-producing enterprises. About 200,000,000 schillings of this sum would be supplied by Austria from its budget surplus, while about 20 percent of the remaining 700,000,000 schillings would be internally raised. Felkin said Austria needs to foresee a considerable time ahead what it must have, since the procedure to obtain priority for new loans is exceedingly cumbersome. So they have tried to see ahead for five years as to their needs. The reconstruction loan provides for 26,000,000 sterling, while this loan's ear-marked revenue exceeds its service by about five times. Felkin is not informed as to whether Austria wishes to offer a further lien on assets already ear-marked for the reconstruction loan as security for the new loan or to set aside for this purpose other assets. A good indication that the proposal is not unsound, he points out, is the fact that the Austrian petition has been assented to by the committee of control, the trustees committee on loan, the Reparation Commission, and the relief credit committee of European states.

(3) Felkin cannot express an opinion, since the League secretariat has not made exhaustive studies, as to whether all the investments proposed are actually productive in character.

The above has been repeated to the Legation in Austria.

WILSON

863.51 Relief Credits/28 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, February 15, 1928—10 a. m.

[Received 8:45 p. m.]

9. As responsive to Department's telegram 10, February 3, 6 p. m.,¹⁸ the Austrian Government requests me to transmit the following translation of statement prepared by it, to wit,

1. Communication is the nerve of Austrian economics. Of the one thousand million schillings deficit of the trade balance, about six hundred millions are covered by transit, foreign trade commissions and tourist traffic. Since the war the urgent investments for means of communication could not be made to the necessary extent. Economic management of the railroads requires admissible axle pressure of from 18 to 20 tons, while at present even on the principal lines often only fourteen and one half to sixteen tons of axle pressure is possible. Hitherto only about twenty-five per cent of the length of rail has been furnished with strong superstructure and this chiefly on the lines electrified by means of contributions from the League of Nations loan. Requirements for traffic at least forty per cent. On nearly half of the total rail length there still exist about fifty different old fashioned rail systems so that the management is still uneconomic, especially as regards the necessity of dividing trains, increased requirement of engines, coal and staff, smaller signals, restriction of free disposals of engines, expressive maintenance of the superstructure and accessories of traffic.

2. Because of the war and the distribution of the rolling stock to the succession states the rolling stock is about two-thirds old fashioned and is no longer sufficient, the repairs in consequence being expensive and uneconomic (on the average, costs of maintenance are fifty per cent higher than in peace time) and management uneconomic (limitation of speed, slower circulation of cars and therefore greater requirements of cars). All freight cars are furnished only with hand brakes; [there is] necessity therefore of introducing automatic brakes for the whole freight rolling stock. Reasons: hand brakes require numerous personnel, especially on mountain lines which are frequent in Austria. Automatic brakes require no personnel for service. Hand brakes mean slower speed and therefore greater requirement of rolling stock and staff. Finally, difficulties with neighboring states which have introduced the automatic brakes.

¹⁸ Not printed; it transmitted, for delivery to the Austrian Minister for Foreign Affairs, the Department's memorandum of February 2, p. 869.

3. Federal railways now intend in the first place to bring the railway lines and rolling stock up to date more quickly than hitherto and therefore wish first to postpone the electrification of the line Salzburg-Vienna planned some time ago. The modernization above described pays very well while the electrification, because of the present very low price of coal (twenty schillings per metric ton normal coal of forty-four hundred calories), is not sure to pay so well.

4. The present new investment plan for the railways: for electrification second (Salzburg-Buchs nearly completed), instead of twenty million schillings, fifty million schillings (see exhibit number 4, my despatch number 1704, February third). Electrification third, Salzburg-Vienna, is left out of revised program. Other investments: For railways, instead of 234,000,000 schillings, 364,000,000 schillings. For rails, machines, bridges and other railway constructions 131,000,000 schillings. For rolling stock 163,000,000 schillings. For automatic freight train brakes 70,000,000 schillings. Besides these investments calculated to enhance the value of the railways, the normal renewal and spare parts purchases will continue to be covered from the current receipts.

5. Annual report of the Federal Railways for 1926 now ready. Austrian deficit, because of notoriously unfavorable European traffic year, nine and a half million schillings. In 1927 probably no deficit. Appropriation of 26,400,000 schillings to Federal Railways in the budget for the year 1928 appears in this budget in the same amount also on the receipt side, and is therefore only a current [balancing?] item (formal reason: participation of Federation in gross traffic receipts by a 5 per cent traffic tax).

6. Austrian Post, Telegraph and Telephone Administration had no deficit in 1927 but a surplus of about 200,000 schillings. Similar results to be expected for 1928. This situation as in the case of the railways results after the full inclusion of all expenditure for interest and amortization of approximately 80,000,000 schillings appearing in 1927 budget, representing sums hitherto allocated from League of Nations loan for investment purposes. For the line Passau-Vienna, 16,000,000 schillings short-term credit was used. Of this sum in the first year 4,200,000 schillings were paid back and the clear profits obtained on these lines which shows that they pay exceedingly well. The construction of further long-distance cable lines [is] necessary in order to meet urgent requirements of traffic and to avoid the danger that the cable lines of neighboring countries will be utilized in international communication to the exclusion of Austrian lines. Only such lines will be established as are sure to pay. Redrafting investment plan for long distance cables, the costs for the improvement of the domestic Austrian telephone plants necessitated by the increase of traffic are of course included.

7. The investments planned for "other lines" concern a negligible participation of the state in the costs of the urgently necessary construction of the two new local lines and the purchase of motor engine cars for the local lines, guaranteed by the state but which have little traffic. Experience shows that the use of electric motor engine cars on such lines always pays well.

8. Data on the investments for tobacco, administration proper, monopolies and other undertakings are not given because according

to the resolution of the control committee the investment loan may only be used for railway and post purposes. Please give a copy to Prochnik.

WASHBURN

863.51 Relief Credits/29 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

[Paraphrase]

VIENNA, *February 16, 1928—10 a. m.*

[Received 10:20 a. m.]

10. Reference my telegram 9, February 15, 10 a. m., which was transmitted at the expense of the Austrian Government because of the importance of expediting the matter. The Government is beginning to be criticized sharply by the opposition press. For example, yesterday the *Arbeiter Zeitung* in a leading article taking as its text Seipel's visit to Prague (which has no special political significance as there are no Austrian-Czech questions at the moment pressing for solution), states that the Chancellor can talk and travel but that he gets little accomplished. Proposed new loan, among other illustrations, is mentioned as a case in point and emphasis is placed on the difficulties created by the foreign powers. It is now generally known, although no power is specifically mentioned, that the United States is the sole remaining stumbling block to the negotiations and flotation of the loan. As the Chancellor is apprehensive that a government and cabinet crisis may develop if delay is prolonged, he is getting sensitive over the general situation. He fears that the alleged ease with which municipal loan was obtained may be invidiously compared with the difficulties facing the government. Of course it is true that the Federal Government is obliged by treaty to deal with the Powers, but voters are apt to overlook fine political points of this kind. The Chancellor hopes that early congressional action will be deemed to be justified by the information now furnished. Cipher text of this telegram together with a copy of the Legation's telegram No. 9 is being mailed to London, Paris, and Berne.

WASHBURN

863.51 Relief Credits/28 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, *February 17, 1928—7 p. m.*

12. Your 9, February 15, 10 a. m. Please telegraph clarification of meaning of words "Superstructure" [and] "Rail Systems" which have no clear meaning in American railway usage.

Your despatch No. 1704, February 3, not received.¹⁹ Please clarify discussion of electrification investment in paragraph 4 of your telegram, summarizing your despatch 1704 if advisable.

Please rush reply. Department is giving immediate consideration to the matter.

KELLOGG

863.51 Relief Credits/30 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, February 18, 1928—5 p. m.

[Received February 18—3:15 p. m.]

11. Department's telegram 12, February 17, 7 p. m. Terminology employed was taken largely from English expert Acworth's report on Austrian railways made in 1923.²⁰

1. "Superstructure" and "rail systems" interchangeably used to mean permanent way or roadbed, sleepers, ballasting of track, rails, switches, bridges.

2. Cost of electrification second, Salzburg-Buchs, originally estimated at 240,000,000 schillings. This amount actually expended; announced a year ago that additional investment of 20,000,000 schillings in 1927 would be required to complete this construction, making total cost 260,000,000 schillings instead of 240. Twenty million schillings increased to 50,000,000 schillings in latest estimates to provide for (1) enlargement of water-power stations by eight million cubic meters and (2) larger number of electric locomotives to accommodate estimated increased traffic. This brings total cost of electrification two to 290,000,000 schillings. Electrification three Salzburg-Vienna meant paring down other investments for railway improvements to 224,000,000 schillings. By postponing three on account of present low coal prices as mentioned in paragraph three it was possible to increase other investments for railways deemed absolutely necessary to 364,000,000 schillings allocated as explained in paragraph four.

3. My despatch No. 1704 contains statistical information supplied Morgan representatives and impractical to summarize. Despatch left with Paris courier [on] 8th instant and undoubtedly caught Cherbourg steamer [on] 11th. It should reach the Department certainly on Monday [the] 20th.

WASHBURN

¹⁹ *Ante*, p. 870.

²⁰ See League of Nations, *Financial Reconstruction of Austria: Report on the Reconstruction of the Austrian State Railways*, pp. 51-72.

863.51 Relief Credits/38 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, February 21, 1928—6 p. m.

15. Your 10, February 16, 10 a. m. The Secretary of the Treasury has today issued a press statement summarizing the Austrian loan situation and announcing that recommendation will be made to Congress for appropriate legislation to permit the subordination of American lien. Naturally no assurance can be given that Congress will act favorably on the recommendation.

Formal reply to Austrian notes will be prepared after the holiday tomorrow.

You may informally advise appropriate officials. Repeat to London, Paris and Berne.

KELLOGG.

863.51 Relief Credits/73

Memorandum by the Economic Adviser (Young)

[WASHINGTON,] March 5, 1928.

Mr. Mills²¹ telephoned to state that on March 3 he had had a long talk in New York with Mr. Leffingwell of J. P. Morgan and Company concerning the Austrian loan. As to the merits of the proposition, Mr. Leffingwell expressed the opinion that in general it is a very good thing for Austria to receive continued assistance from foreign capital, and that the situation should work itself out. Mr. Leffingwell, however, doubted whether the loan would be a sound proposition if it rested only upon the credit and prospects of the Austrian railways. With the credit of the Austrian Government, however, he felt it would be all right. Mr. Leffingwell gave Mr. Mills for his confidential information data furnished by Morgan's representative in Vienna.

Mr. Leffingwell further stated that he understood that the European relief creditors had conditioned their agreement to subordinate the lien upon Austria's agreeing to a definite settlement of the relief credits. Mr. Leffingwell feared that the relief creditors may be demanding too much from Austria. He stated that Morgan and Company were not disposed to go ahead with the business unless this matter were suitably arranged.

Mr. Leffingwell further stated that the Reparation Commission had only agreed to subordinate the reparation debt and not to postpone it. He was afraid that reparation payments might in the future be required from Austria in a manner that might prejudice the position

²¹ Ogden L. Mills, Under Secretary of the Treasury.

of the loan now proposed. He stated that Morgan and Company were not inclined to go ahead with the proposed loan unless the reparation debt were postponed as well as subordinated.

I told Mr. Mills that we would at once seek further information on the subject. A[RTHUR] N. Y[OUNG]

863.51 Relief Credits/42 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, March 5, 1928—6 p. m.

16. Department's 15, February 21, 6 p. m.

(1) Department had understood that Governments holding relief bonds were making no conditions other than those set forth in Relief Bonds Committee's letter of December 12 to the Austrian Minister at London.²² Department, however, is now confidentially informed that European Governments holding relief bonds are conditioning subordination of lien in favor of new loan upon Austria agreeing to definite settlement of relief credits. Basis on which settlement is said to be desired is not known but may be that of Relief Bonds Committee counter-proposal to the Austrian Government (see your despatch 1664, December 28;²³ also Austrian note to the Secretary of State, January 28,²⁴ transmitted with Department's instruction 644, February 9²⁵).

(2) Please at once inquire of the Austrian Government whether the foregoing report is correct and also inquire concerning status of relief debt negotiations. You should state that obviously the Government of the United States expects the Austrian Government to treat it on an equal footing with all other Governments in these matters and also that you wish to be kept closely informed of all pertinent developments.

Telegraph reply as soon as possible.

KELLOGG

863.51 Relief Credits/44 : Telegram

The Secretary of State to the Ambassador in Great Britain (Houghton)

[Paraphrase]

WASHINGTON, March 5, 1928—7 p. m.

56. Referring to previous communications regarding the proposed Austrian loan:

The Department is informed confidentially that the European Governments which hold relief bonds are making the subordination

²² *Foreign Relations*, 1927, vol. I, p. 470.

²³ *Ibid.*, p. 465.

²⁴ *Ante*, p. 864.

²⁵ Not printed.

of lien in favor of the new loan conditional upon agreement by Austria to settle definitely the relief credits. The Department's understanding was that these Governments were in principle agreeable to subordination of lien if all Governments similarly situated took like action and if the Reparation Commission allowed suitable release. Mr. Leith Ross, of the British Treasury, on December 12, 1927, so informed the Austrian Minister in London (see the Reparation Commission's Annex 3271-J).²⁶

The Department would welcome any discreetly available information as to the report above as well as with regard to the status of negotiations on the relief debt.

Please cable your reply and repeat it to the Legation in Austria.

KELLOGG

863.51 Relief Credits/40

The Austrian Minister (Prochnik) to the Secretary of State

No. 46/R

WASHINGTON, March 7, 1928.

EXCELLENCY: AS YOUR Excellency are aware of, the Austrian Government had resolved to settle the country's relief debts and for this purpose entered into negotiations with the pertaining Creditor States in Europe.

Austria assumes the obligation of paying in 25 equal annuities, beginning from the year 1943, a total of 1,162,500,000 Austrian schillings (to all Creditor States incl. the United States) and reserves the right to commence payments on January 1st, 1929, on the following scale:

from 1929-1933,	5 annuities	à 10,000,000 S	=	50,000,000
" 1934-1943,	10 "	à 16,000,000 S	=	160,000,000
" 1944-1968,	25 "	à 25,840,000 S	=	646,000,000
				856,000,000

Corresponding to the above scale my Government offers to fund Austria's relief debt to the United States on the following plan:

5 annuities	(1929-1933)	of \$284,000 each	=	\$ 1,420,000
10 "	(1934-1943)	of \$455,000 "	=	\$ 4,550,000
24 "	(1944-1967)	of \$735,000 "	=	\$17,640,000
1 annuity	(1968)	of \$729,000 "	=	\$ 729,000
total				\$24,344,000

I have the honor to solicit on behalf of my Government Your Excellency's kind intermediary in recommending with the least possible delay acceptance by your Government and Congress of a settlement as outlined before.

²⁶ *Foreign Relations*, 1927, vol. I. p. 470.

In support of my petition I beg to point out the fact, that our offer, as it stands now, already is based on terms less favorable for us than those granted by the United States to other debtors (less favorable even than the terms accorded to Italy). Prompted by a desire of offering to the United States no lesser terms of settlement than those we had to propose to our European relief creditors we already have deprived ourselves of the benefit of the policy adopted by your Government in regard to debt settlements, i. e. a funding based on the debtor's paying capacity.

Austria, although one of the poorest debtors of the United States, will, under the funding plan offered by her, be among the less favored debtor nations, as her offer provides for a total payment, which, reduced to its present value (at 5% interest), would represent 37% of her entire indebtedness to the United States. Still more unfavorable would be her position as compared with that of the other debtors of the United States if Your Excellency's Government should decide to strictly adhere to their indisputable right of accepting no lesser terms than those Austria will have to grant to her other creditors and in view thereof would refuse to consider our proposal prior to a conclusion of our negotiations with our other creditors; with other words, if Your Excellency's Government should resolve to strictly conform their final decision to the outcome of our negotiations in Europe.

Your Excellency would greatly oblige me by obtaining and communicating to me at your earliest possible convenience a statement by your Government as to their attitude towards the funding proposal submitted by this Legation.

Accept [etc.]

EDGAR PROCHNIK

S63.51 Relief Credits/41

The Austrian Minister (Prochnik) to the Secretary of State

WASHINGTON, March 7, 1928.

MY DEAR MR. SECRETARY OF STATE: I have the honor to enclose herewith a Memorandum concerning the present status of deferment of a lien held against Austria by European countries.

Accept [etc.]

EDGAR PROCHNIK

[Enclosure]

The Austrian Legation to the Department of State

MEMORANDUM

The Austrian Minister upon being told by the Economic Adviser, Mr. Young, that an information had reached the Department of State to the effect that the European countries holding a lien against

Austria for relief credits had decided to make their consent for further deferment of said lien dependent on a funding of their credits, immediately cabled to the Federal Chancery, Department of Foreign Affairs, for advice and instructions, as afotererferred to information was quite in contradiction to the answers given by the Relief Committee, the Governments concerned and the Reparations Commission to the request made by the Austrian Federal Government for an extension of the period of deferment in connection with the intended loan.

The Minister of Austria was informed by his Government that it does not know of any change in the status of the case and that the information received by the Department of State must obviously be based on some misapprehension, as all the creditor countries (the United States excepted) already deferred their lien with the consent of the Reparations Commission, while negotiations for a settlement of the relief debts still are pending. There was originally an intention on the part of the Creditor States to make deferment of lien dependent on funding of relief debts, but this plan was abandoned at the request of the Austrian Government.

863.51 Relief Credits/43 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, March 7, 1928—3 p. m.

[Received 4:57 p. m.]

12. (1) Department's telegram 16, March 5, 6 p. m. Foreign Office has shown me protocol of Relief Bonds Committee meeting which indicates that "consent in principle" mentioned in Committee's letter of December 12 refers to the three conditions therein enumerated as stated on page 6 of my despatch number 1664, December 28.²⁷ Condition one refers to the United States, condition two met by resolution transmitted as exhibit 5 of my despatch 1692, January 23.²⁸ Specific security mentioned in condition three not yet agreed upon with underwriting bankers because negotiations await Congressional action but when approved by Relief Committee's English chairman Leith Ross it is the understanding here that subordination of relief bonds lien becomes automatic assuming American Government acts; apparently nobody has hinted that this third condition will be utilized to exert pressure on the Austrian Government.

(2) Status of relief debt negotiations: Foreign Office assures me that French, Italian, Swiss and Dutch Governments have indicated

²⁷ *Foreign Relations*, 1927, vol. I, p. 465.

²⁸ Enclosure to despatch 1692 not printed; but see paragraph (6) of telegram No. 13, Jan. 14, 1928, from the Chargé in France, p. 859.

their willingness to accept Austrian proposal set forth in enclosure C of Prochnik's note of January 28²⁹ provided British Government will do the same. Austrian Minister at London reports that British Government shows good will but Chancellor of the Exchequer has not yet given final answer. Schüller admits he recognized necessity for making proposal for relief bond settlement but there has been no suggestion of any intention to make such settlement a condition precedent of lien subordination and this would be contrary to terms of letter of December 12 but he does not exclude possibility that interested parties would welcome it if the United States should stipulate such condition precedent. Schüller relies on Mussolini's personal promise of favorable action though latter's South Tyrol speech on Saturday³⁰ contained threat Italy may delay loan.

(3) Why is not situation fully met by passage of a joint resolution similar to that of April 6, 1922,³¹ mentioned in Department's telegram 20, October 28, 1927?³² Secretary of the Treasury could then exercise his discretion in the light of the action of other interested powers.

WASHBURN

863.51 Relief Credits/76

The Minister in Austria (Washburn) to the Assistant Secretary of State (Castle)

VIENNA, March 7, 1928.

[Received March 20.]

DEAR CASTLE: Before the courier goes today I snatch a moment to say that perhaps you can find time, if the necessity exists, again to glance at my telegram No. 12 of even date, 3 p. m., relating to the Austrian loan. It would be a pity to make a cat's-paw of us and very possibly there is no desire to do so, but I think the Austrian Government is right in its contention that the other relief credit states cannot now in good faith, in view of their commitments, make a prior relief credit settlement a condition precedent to lien subordination. None of them would openly attempt to do so.

I think you will agree with me that the passage of a resolution similar to the one enacted in 1922 will meet the situation. We will be amply protected and the Secretary of the Treasury could delay the exercise of his discretion until fully satisfied everything was in order. I hope too that the resolution will not be permitted

²⁹ *Ante*, p. 866.

³⁰ March 3, 1928.

³¹ 42 Stat. 491.

³² *Foreign Relations*, 1927, vol. I, p. 454.

to die in committee or on the calendar, since, as the Department has made plain, we can have no reason to do other than the other interested powers are doing.

Sincerely yours,

ALBERT H. WASHBURN

863.51 Relief Credits/48 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, *March 9, 1928—4 p. m.*

[Received March 9—2:30 p. m.]

[46.] Your 56, March 5, 7 p. m. Discreet inquiries tend to show that the point of view expressed in the Department's telegram is correct, namely, that European Governments holding relief bonds are conditioning the subordination of their lien in favor of the new loan upon Austria agreeing to a definite settlement of relief credits. This viewpoint was known in influential circles here about a fortnight ago and as far as can be found out still prevails. I understand that the Austrians have agreed in principle to the settlement of [apparent omission] has not yet been agreed upon.

I learn informally from the Italian Embassy that there is to be a meeting of representatives of the interested Governments in the near future.

Repeated Vienna.

HOUGHTON

863.51 Relief Credits/50 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, *March 9, 1928—7 p. m.*

66. Reparation 46.

(1) To permit loan contemplated, recommendation is to be made to Congress that the Secretary of the Treasury be authorized to release Austrian assets. However, confidentially, it appears possible that the position may be taken by the bankers that they would not be warranted in issuing the loan unless status of reparation payments and relief debt for which Austria will be liable is first satisfactorily determined. They fear that the exactions from Austria might conceivably be so large as to threaten the credit of Austria. They have raised the question whether, in view of the terms of the 1923 reconstruction loan, payments should not be postponed at least until 1943; also

whether reparation payments should not be postponed until after the maturity of the contemplated loan (1958), pointing out that the decision of the Reparation Commission of January last merely related to excepting certain revenues from the charge created by article 197 of the Treaty of St. Germain.

(2) As a relief creditor of Austria, the Government of the United States is also obviously interested in the situation as to Austrian reparations. As to fixing Austrian reparations, are there any developments subsequent to those outlined in section 6 of the memorandum referred to below and your letter of March 14, 1927?³⁴ What are the present prospects?

(3) The proposals of Austria for funding her relief debt present a question as to the amount of the liability of Austria for army costs and other charges which rank ahead thereof according to the terms of the relief bond (for text of bond and other relevant information see memorandum transmitted with the Department's instruction No. 2030 of September 16, 1926.)³⁴

The latest available information as to the Austrian army costs is contained in part III of the monthly accounting annex for April 1925,³⁴ page 3, which indicates that the claim of Italy was set off against the value of property ceded to Italy, presumably pursuant to paragraph two of the agreement of March 11, 1922,³⁵ annex 1358b. Is the latter agreement considered to be in effect? Is there any indication as to the amount of the claim of France on Austria for army costs? Are data available for ascertaining the amount of Austria's liability, if any, for other costs which, according to its terms, rank prior to the relief bond?

(4) Telegraph briefly and report by mail fully any information discreetly available on the foregoing matters, together with your comments. Mail cipher text of this telegram together with your reply to the Legation at Vienna and to the Embassy at London.

KELLOGG

863.51 Relief Credits/52 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, March 10, 1928—4 p. m.

17. Department's 16, your 12.³⁶ Please informally mention to appropriate official [the] general nature of report contained in London Embassy's telegram 46, March 9, 4 p. m., repeated to Vienna, and telegraph further comment as soon as possible.

KELLOGG

³⁴ Not printed.

³⁵ *British and Foreign State Papers*, vol. cxvi, pp. 612, 621.

³⁶ *Ante*, pp. 882 and 885.

863.51 Relief Credits/53 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, March 10, 1928—8 p. m.

58. Your 46, March 9, 4 p. m.

(1) Department has been informed that a meeting of Control Committee will be held March 15 at which new proposals from Austria in regard to expenditure of proceeds of proposed loan and possibly other matters will be considered.

(2) The Treasury has publicly announced that it is proposed to recommend to Congress that authority be granted to subordinate the lien of the United States on Austria's assets and revenues to permit flotation of proposed loan, subject of course to similar action by other governments concerned and Reparation Commission. If legislation is not introduced at the earliest possible moment, there is little chance of obtaining it at the present session of Congress. The actual introduction of legislation has, however, been delayed by the lack of definite data as to the status of proposed arrangements for settling Austria's relief obligations. These are held by the United States and eight other governments, and contain *pari passu* clause. In order properly to explain to Congress request for legislative authority, the Department of State and the Treasury must have definite picture of situation. Otherwise representatives appearing before the congressional committees might be subject to embarrassment from lack of information.

(3) In the circumstances I think you should have a frank talk with the Foreign Office, explaining the above situation and inquiring whether such meeting is to be held, and if so, where. If it is to take place, you should say that you would be interested to receive specific information as to matters to be considered and also the views of the British Government as to the prospect of agreement with Austria in the near future as to basis for settlement of relief debts. You should also inquire whether in fact definite action in authorizing proposed loan is to be conditioned on settlement of relief indebtedness, or if not actually conditioned or connected whether both propositions are to be settled simultaneously.

(4) Telegraph reply as soon as possible. Repeat these instructions to Embassy Paris for information and to Legation Vienna for telegraphic comment. Similarly repeat your reply. See for your further information Department's 66, March 9, 7 p. m. to Paris. Embassies [at] London and Paris and Legation Vienna should keep each other mutually informed.

KELLOGG

863.51 Relief Credits/59 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, March 12, 1928—6 p. m.

[Received March 12—5:17 p. m.]

13. Department's telegram 17, March 10, 4 p. m., [to] Vienna; and 58, March 10, 8 p. m., to London.

(1) Control Committee meeting Geneva advanced one week to pass on new investment plan revised as indicated in paragraph 4 my telegram number 9, February 15, 10 a. m. Schüller advised me before his departure that he regarded this as purely *pro forma*. Foreign Office informs me new investment plan approved on March eighth, no other matter being considered.

(2) According to advices from the Austrian Minister at London, Relief Committee meeting scheduled for March 30. Chancellor insists:

First, that lien subordination will not be there considered, having already been adjusted as explained in paragraph one my telegram number 12, March 7, 3 p. m., and that therefore definite action in authorizing proposed loan cannot be conditioned on settlement of relief indebtedness;

Second, that only question to be considered is action upon Austrian proposal referred to in paragraph two my telegram last mentioned;

Third, that proposed loan authorization and relief indebtedness are separate matters and that European Governments, especially the British Government, have given assurances that there is no disposition to force settlement of both propositions simultaneously.

Chancellor plainly apprehends . . . intrigue.

WASHBURN

863.51 Relief Credits/60 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, March 13, 1928—1 p. m.

[Received March 13—1 p. m.]

48. Department's 58, March 10, 8 p. m.

1. Control Committee will meet March 15 at which time Austrian Government will state they did not desire to use 1923 loan for electrification purposes but to divert money for another adequate scheme. This meeting is of course in no way concerned with relief bonds since Control Committee represents guaranteeing governments.

2. As regards European relief debts, creditor governments have already subordinated their liens to permit flotation of proposed new

loan. This is the only step formally necessary to permit flotation (United States agreeing), but in order to facilitate placing of loan Austrian Government are negotiating for settlement of relief debts to European creditors providing for reduced payments spread over a term of years. It has always been understood on both sides that identical offer will be made by Austrian Government to the United States Treasury. On March 30th a meeting of representatives of European relief creditors is to be held in London at which it is hoped that terms for settlement of the European relief debts will be reached. (If discussed figures have not already been presented to you by Austrian Legation, I can telegraph data which is also being forwarded by pouch today.) Result of meeting will be confidentially communicated to me at once. The settlement will provide that priority of relief debts over reparations is maintained, and accordingly approval of Reparation Commission will be required before settlement becomes final. It may be hoped that final settlement be reached during April.

Above information has been obtained direct from British Treasury. This telegram has been repeated to Paris and Vienna.

HOUGHTON

863.51 Relief Credits/61 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, *March 13, 1928—4 p. m.*

[Received March 13—12:36 p. m.]

49. My 48, March 13, 1 p. m. Am confidentially informed, by reliable authority speaking unofficially, meeting of March 30 will accept general terms of last Austrian offer for settlement of European relief debts.

HOUGHTON

863.51 Relief Credits/62 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *March 13, 1928—6 p. m.*

[Received March 14—1:25 a. m.]

64. Reparation 81. Reference Department's No. 66, Reparation No. 46, March 9, 7 p. m.

(1) Your paragraph (2). In regard to the fixing of Austria's reparation liabilities nothing further has developed. Over a year

ago the British and French submitted to the Italians the proposal outlined in my letter of March 14, 1927,³⁷ but the Italians have not as yet given any indication as to their possible attitude. It seems possible that Italy may prefer, before agreeing to any piecemeal settlement, to await settlement of the entire reparation problem (including German reparations).

(2) Department's paragraph (3) concerning Austria's liability for costs ranking prior to the relief bonds:

(a) Regarding Italian army costs: The Commission has never approved the monthly accounting annex of April, 1925.³⁷ The army costs of Italy have never in fact been set off against the value of property ceded. The relevant provisions of the March 11, 1922, agreement as set out in article 11 and the annex to the agreement³⁸ appear never to have entered into effect. The issue of C bonds provided by article 11 is a condition precedent to any settlement on account of ceded property. Of course this provision has not been fulfilled. Furthermore, the final paragraph of the annex provides that the pertinent articles thereof shall not become effective until the liberation debt of Czechoslovakia and Poland have been discharged by them. Of course this has not been done. The army cost claim of Italy therefore remains unsettled. A member of the Italian delegation told me in confidence that Italy has never contemplated demanding formally this claim in priority to the relief bonds but will demand priority for it of course over reparation payments when the question of fixing the reparation liabilities of Austria is discussed.

(b) Regarding the French army costs, the amount has never been notified to the Reparation Commission. I understand, however, that it is relatively unimportant. I may be able to obtain from the French delegation exact figures and if I am able to obtain them they will be forwarded to the Department.

(c) The Serbian army costs have been reported to the Commission at approximately the figure indicated in the accounting annex of April, 1925. The accounting section has converted this amount in dinars to 146,043,769.40 gold crowns. The Commission has never approved these costs. Moreover, Serbia is in debt to the reparation pool on account of excess receipts and is also a debtor on account of Austrian ceded property and liberation costs and will probably, therefore, never obtain the payment of her army costs except through some arrangement providing for setoffs.

(d) As concerns expenses of restitution, the Department is already posted (see my letter of February 13, 1928,³⁹ and previous reports). In general no further payments on this score can be made by Austria

³⁷ Not printed.

³⁸ *British and Foreign State Papers*, vol. cxvi, pp. 612, 619, 620.

³⁹ Not printed.

without obtaining the consent of the governments holding relief bonds.

(e) The share of Austria in the expenses of the Reparation Commission is comparatively insignificant. Her share amounted in the third annuity year to about 169,000 gold crowns.

(f) Regarding deliveries in kind for which priority is conceded according to the text of the relief bonds, it would seem that, by the exceptions to the priority as defined in the text of the bonds, particularly by the reference to deliveries under annex two, paragraph 19, part 8 of the Treaty of Versailles,⁴⁰ any demand for effective deliveries have been shut out.

In short, I should feel as a practical matter that there are probably no effective liabilities of any importance of Austria for costs ranking ahead of the relief bonds.

(3) In general, it is my impression that the powers guaranteeing the reconstruction loan of Austria are not likely to stultify their efforts toward the rehabilitation of Austria by exacting from Austria unduly burdensome reparation payments or other payments under the treaty. As regards Great Britain, this is particularly true. The influence of Great Britain seems to have effectively deterred any attempt to press Austria and Hungary for an [apparent omission] reparation settlement and will doubtless continue to prove effective.

(4) Full report being sent by mail.

London and Vienna have been mailed cipher texts.

HERRICK

863.51 Relief Credits/63 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, *March 14, 1928—11 a. m.*

[Received 11:40 a. m.]

65. Reparation 82.

(1) Reference the final sentence of paragraph (2) (a), my telegram No. 64, Reparation No. 81, dated March 13, regarding statement by member of the Italian delegation as to Italian position concerning payment of army costs in priority to relief bonds. I desire to add, in order to avoid any possible misapprehension on the part of the Department, that in my opinion the statement referred to was made presumably in contemplation of the situation which has existed up to the present as regards payment of the relief bonds, that is, that such payment has been postponed until 1943. If, however, Austria

⁴⁰ Malloy, *Treaties, 1910-1923*, vol. III, pp. 3329, 3429.

should in fact begin payment on that account in 1929 in accordance with the proposal for funding the relief debt, I should feel also that it would be quite possible that Italy, and France perhaps, would seek to raise the question of obtaining some payment in respect of army costs in view of the priority of army costs over the relief bonds.

(2) The last sentence of paragraph (2) (*f*), of my telegram referred to above, should be read in the light of the foregoing comment.

London and Vienna sent ciphers.

HERRICK

863.51 Relief Credits/66 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, March 14, 1928—7 p. m.

18. Your 13, March 12, 6 p. m. Your explanations, together with those received from the Ambassador at London, sufficiently clarify situation to warrant forwarding to President recommendation that he ask Congress to grant to Secretary of the Treasury authority to subordinate lien. It is anticipated that legislation will be introduced within a few days, although naturally no formal commitment can be made until the President has acted. As stated in Department's 15, February 21, 6 p. m., no assurance can be given in regard to action of Congress. Also of course the exercise of any authority Congress may grant will naturally be considered in the light of the whole situation as it may stand at the time.

You may orally and confidentially inform Chancellor of the foregoing and may add, with reference to final sentence your 13, that this Government has no evidence of intrigue by any Government.

Repeat to London and Paris.

KELLOGG

863.51 Relief Credits/65 : Telegram

The Acting Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, March 15, 1928—6 p. m.

19. Please telegraph as soon as possible dollar equivalent of total principal amount (i. e., not including accumulated interest or bonds given in lieu of interest) of relief indebtedness of Austria to the creditor governments, including the Government of the United States. Is the Government of the United States correct in the assumption that the only Governments other than the United States now holding relief obligations of Austria are: Denmark, France,

Great Britain, Italy, The Netherlands, Norway, Sweden and Switzerland? See part (4) of memorandum transmitted with Department's instruction 500, September 16, 1926.⁴²

OLDS

863.51 Relief Credits/64 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, *March 16, 1928—11 a. m.*

[Received March 16—6:58 a. m.]

52. Informed [that] Control Committee, mentioned in paragraph 1, my 48, March 13, 1 p. m., originally scheduled to meet March 15, met March 8 and decided to raise no objection to proposed Austrian expenditure.

HOUGHTON

863.51 Relief Credits/67 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, *March 16, 1928—6 p. m.*

[Received March 16—5:57 p. m.]

14. Department's telegram 19, March 15, 4 [6] p. m.

1. The various original relief indebtedness amounts were expressed in different currencies, the total principal amount (i. e., not including accumulated interest or bonds given in lieu of interest) according to yesterday's check exchange rate is 849,502,985.55 Austrian schillings, the equivalent of \$119,846,673.80.

2. No governments hold relief obligations other than those enumerated in the Department's before-mentioned telegram.

3. Part four of memorandum referred to in said telegram inaccurate, undoubtedly due in part to inclusion of interest. Compare aforesaid memorandum with annex (a), my despatch 254, June 20, 1923,⁴² and pages 3 and 4, my despatch No. 1656, December 14,⁴³ and also page 4, my despatch No. 1664, December 28, 1927.⁴⁴ Revised tables together with other pertinent information regarding relief indebtedness being forwarded by next pouch.

WASHBURN

⁴² Not printed.

⁴³ *Foreign Relations*, 1927, vol I, pp. 460, 462; see paragraph beginning: "Dr. Schüller advised."

⁴⁴ *Ibid.*, p. 465; see paragraph of *aide-mémoire* beginning: "2. The total sum."

863.51 Relief Credits/79

Memorandum by the Economic Adviser (Young)[WASHINGTON,] *March 19, 1928.*

On March 17 and 19 I discussed the Austrian situation at considerable length with Under Secretary Mills. With reference to his suggestion that the procedure should be to conclude a debt settlement with Austria which would take care of the question of subordination of the lien, I pointed out, first, that this would entail some delay because of the time required for drafting and for getting the necessary approval of the Austrian Government, and that this delay might interfere with action at the present session of Congress. I further pointed out that Austria could not make a definitive agreement with the United States except in connection with a general agreement with all the debtors. Although there is reason to believe that agreement with the European relief creditors may be reached, at least in principle, on March 30, it is not certain that that will result. Furthermore, the drafting and obtaining of the necessary approval on the part of the European countries is likely to take some time. I took the above position after discussing the matter fully with Mr. Castle, Mr. Olds and the Secretary. Mr. Mills finally agreed to the drafting of a bill which would, in the first place, authorize subordination of the lien, and, second, would authorize the Secretary of the Treasury to conclude a debt funding agreement with Austria.

Mr. Mills and I conferred with Secretary Mellon, who approved that procedure. Mr. Mills was inclined to the opinion that the Department of State should take the leading part in urging the proposal upon Congress inasmuch as the particular methods of handling the matter had been urged by the Department. I took the position that the matter is predominantly financial and therefore a matter primarily for the Treasury. Mr. Mellon agreed that the Treasury would take a leading part. I stated that the Department of State would, of course, assist in any way it could.

The procedure agreed upon was approved by Secretary Kellogg.

A[RTHUR] N. Y[OUNG]

863.51 Relief Credits/82

The Austrian Minister (Prochnik) to the Secretary of State

No. 59/R

WASHINGTON, *March 19, 1928.*

EXCELLENCY: I have the honor to state that I am authorized to assure you that the Austrian Government intends to make a settlement of the relief debt at the earliest practicable date, and that

it is prepared to make with the United States a settlement on a basis no less favorable to the United States than made with the other relief creditor governments, or any of them.

Accept [etc.]

EDGAR PROCHNIK

863.51 Relief Credits/34

President Coolidge to the Congress of the United States

TO THE CONGRESS OF THE UNITED STATES:

I am submitting herewith for your consideration a copy of a report of the Secretary of the Treasury regarding the action proposed to be taken by the Government of the United States in respect of the debt of Austria to this Government.

The action proposed by the Secretary of the Treasury has my approval. I recommend that the Congress enact the legislation necessary to enable the United States to join with the other relief creditors in permitting Austria to obtain the additional capital urgently needed for continuing its economic reconstruction, and to authorize the Secretary of the Treasury to conclude an agreement for the settlement of Austria's debt to the United States.

CALVIN COOLIDGE

THE WHITE HOUSE, *March 20, 1928.*

[Enclosure]

The Secretary of the Treasury (Mellon) to President Coolidge

[WASHINGTON] *March 19, 1928.*

MY DEAR MR. PRESIDENT: I have the honor to submit the following report in respect of the debt of Austria to the United States Government, with particular reference to the request submitted by the Austrian Government for the subordination of the lien enjoyed by the Government of the United States under the terms of the relief bond of the Austrian Government held by the Treasury Department to a new loan to be issued for reconstruction purposes, and other questions related thereto.

It will be recalled that during 1919 and 1920 conditions in Austria were so serious that the United States and a number of European governments found it necessary to furnish foodstuffs and other relief supplies on credit. The Act of Congress approved March 30, 1920,⁴⁵ authorized the United States Grain Corporation, with the approval of the Secretary of the Treasury, to furnish flour on credit "to relieve populations in the countries of Europe or countries contiguous thereto suffering for the want of food". Pursuant to that legislation,

⁴⁵ 41 Stat. 548.

flour was sold to Austria, and the Government of the United States now holds an Austrian bond in the principal sum of \$24,055,708.92, given in payment therefor. Certain other governments, namely, Denmark, France, Great Britain, Italy, The Netherlands, Norway, Sweden and Switzerland, hold relief bonds of similar character in the sum of about \$95,000,000. The relief bonds of 1920 enjoy "a first charge upon all the assets and revenues of Austria". They rank ahead of Austria's reparation obligations.

The bond held by the United States is dated September 4, 1920, and by its terms matured January 1, 1925. In 1922, conditions in Austria were such as to necessitate financial assistance from abroad in order to permit the stabilization of the currency, the balancing of the Budget, and the resumption of the economic life of the country. The credit of Austria was at a low ebb. No exterior loan could be floated as long as relief loans and reparations constituted prior charges on Austria's assets and revenues. Accordingly, the relief creditors, including the United States, and the Reparation Commission, agreed to subordinate their liens to permit the flotation of a reconstruction loan. Under the terms of the so-called Lodge Resolution of April 6, 1922,⁴⁶ the Secretary of the Treasury extended the maturity date of the relief bond held by the United States Government until June 1, 1943, and at the same time agreed to subordinate the lien enjoyed by the United States for the purpose of permitting the reconstruction loan of 1923. The Lodge Resolution, which set forth the urgent need for relieving Austria from the immediate burden of the lien, reads as follows:

"Whereas the economic structure of Austria is approaching collapse and great numbers of the people of Austria are, in consequence, in imminent danger of starvation and threatened by diseases growing out of extreme privation and starvation; and

"Whereas this Government wishes to cooperate in relieving Austria from the immediate burden created by her outstanding debts: Therefore be it

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized to extend, for a period not to exceed twenty-five years, the time of payment of the principal and interest of the debt incurred by Austria for the purchase of flour from the United States Grain Corporation, and to release Austrian assets pledged for the payment of such loan, in whole or in part, as may in the judgment of the Secretary of the Treasury be necessary for the accomplishment of the purposes of this resolution: *Provided, however*, That substantially all the other creditor nations, to wit, Czechoslovakia, Denmark, France, Great Britain, Greece, Holland, Italy, Norway, Rumania, Sweden, Switzerland, and Yugoslavia shall take action

⁴⁶ 42 Stat. 491; also *Foreign Relations*, 1922, vol. I, p. 618.

with regard to their respective claims against Austria similar to that herein set forth. The Secretary of the Treasury shall be authorized to decide when this proviso has been substantially complied with."

The action of the Secretary of the Treasury under the authority of the resolution was taken on June 9, 1923.

In 1923 a reconstruction loan amounting to about \$125,000,000 was floated by Austria in the United States and European countries. This loan was guaranteed by several of the European governments. It saved Austria from economic and social disintegration and collapse. The program of reconstruction led to the stabilization of Austrian currency during 1923 and the balancing of the Austrian budget by 1924. It has been balanced ever since.

Austria's economic reconstruction, however, has not been completed and the capital resources of the country are not adequate to the task. The Austrian Government now desires to float a new loan in the net amount of 725 million Austrian schillings, or about \$100,000,000, for the continuation of the program of reconstruction. The proceeds would be applied to capital expenditures, that is, to the repair, improvement and re-equipment of the Austrian railway, telegraph and telephone systems. The lien enjoyed by the relief bonds makes it difficult, if not impossible, for Austria to obtain the necessary funds for these purposes. Accordingly, the Austrian Government has requested the Governments holding Austrian relief bonds and the Reparation Commission to subordinate their liens in favor of the new loan for a period not exceeding thirty years.

The Treasury Department is advised by the Department of State that all of the foreign governments concerned have already informed the Austrian Government to the effect that they are willing to subordinate their liens, providing all of the governments in a similar position, and the Reparation Commission, do likewise. It is further understood that the Reparation Commission has agreed to subordinate the reparation lien on Austria's assets and revenues in favor of the new loan. The Austrian Government has requested the Government of the United States to take similar action. Since unanimous consent is required, failure of the United States to join the other Governments concerned in granting Austria's request would constitute a barrier to the floating of the new reconstruction loan.

Since the proposed loan would be for a term of thirty years, and the relief bonds mature in 1943, the mere subordination of the lien may not be sufficient to permit the flotation of the new loan. The Austrian Government is at present negotiating with the Government of the United States and the other relief creditor governments terms of payment of the relief bonds so as to provide for the liquidation of

the indebtedness over a period of years. All of the relief bonds are of similar tenor and contain the following clause:

"The Government of Austria agrees that no payment will be made upon or in respect of any of the obligations of said Series issued by the Government of Austria before, at or after, maturity, whether for principal or for interest, unless a similar payment shall simultaneously be made upon all obligations of the said Series issued by the Government of Austria in proportion to the respective obligations of said Series."

The Austrian Government has assured the Government of the United States that it intends to make a settlement of the relief debt at the earliest practicable date, and that it is prepared to make with the United States a settlement on a basis no less favorable to the United States than that made with the other relief creditor governments, or any of them.

In view of the terms of the bond, as set forth above, Austria can not make a definitive settlement of the relief obligations without the agreement of all nine of the creditor governments. Such a settlement obviously may take some time, and it might well be impossible to submit the terms of settlement to the Congress at this session. This in turn might mean the indefinite postponement of the flotation of a new loan, which is urgently needed. Under these circumstances it is extremely desirable that the Executive Branch of the Government should have the authority to clean up the whole matter, with the limitation that our debt should be settled on terms no less favorable than those granted the other governments, and on the understanding that the security now enjoyed be not released except in so far as necessary to permit the flotation of the contemplated reconstruction loan.

I am strongly of the opinion that the United States should not take a position that would obstruct any proper and well-considered measures for furthering Austria's reconstruction, particularly since such measures will tend to promote our commercial intercourse with Austria and should increase Austria's capacity to repay its indebtedness to the United States.

The matter has been given careful consideration by the Secretary of State and myself, and I suggest that, if you approve, legislation be sought from Congress authorizing the Secretary of the Treasury, in his discretion, to subordinate, for a period not exceeding thirty years from January 1, 1929, the lien of the United States on Austria's assets and revenues to the extent necessary to permit the flotation of the loan now proposed, subject, of course, to satisfactory notification that the other governments and the Reparation Commission agree to take similar action; and authorizing the Secretary of the Treasury, with the approval of the President, to conclude an agreement for the settle-

ment of the indebtedness of Austria to the United States upon terms and conditions no less favorable than the terms and conditions granted by Austria to any of the other relief creditor governments.

Faithfully yours,

A. W. MELLON

863.51 Relief Credits/69 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, March 20, 1928—6 p. m.

21. The President today forwarded to Congress formal message recommending that the Secretary of the Treasury be authorized to subordinate lien subject to similar action by other Governments and Reparation Commission, and that he further be authorized, with the approval of the President, to conclude debt settlement on terms and conditions as favorable as Austria may grant to any other relief creditor Government. Appropriate legislation is being introduced in Congress.

You may inform Chancellor of the foregoing, bearing in mind third and fourth sentences of Department's 18, March 14, 7 p. m.

For your further information, Department points out that authorization merely to subordinate lien might not be sufficient to permit loan flotation in view of the fact that principal and interest of relief bonds will fall due 1943, and since bankers may feel loan could not be floated until provision for relief debts had been made. Accordingly, it was deemed advisable to request authority also to settle relief debt. You of course understand that proposed legislation would not condition subordination on settlement of debt.

KELLOGG

863.51 Relief Credits/75

The Austrian Minister (Prochnik) to the Secretary of State

No. 63/R

WASHINGTON, March 22, 1928.

EXCELLENCY: The message of the President to Congress, in which the Chief Executive submitted a copy of a report of the Secretary of the Treasury regarding the Austrian relief debt and recommended appropriate legislative measures for a deferment of lien and settlement of said debts, will be highly appreciated throughout Austria as it constitutes a big step forward in the Republic's economic reconstruction.

I am merely voicing the general sentiment prevailing in my country by expressing to Your Excellency and, through your kind intermediary, to the Government of the United States the deepest felt

gratitude of the Austrian nation and its Government for the sympathetic attitude shown repeatedly before and now again by the United States towards their hard but successful strife for existence. This renewed manifestation of a friendly spirit exerts itself as a strong moral support.

May I take the liberty to add the expression of my own personal gratitude for the ready understanding and willing cooperation which I found in the Department of State and in particular in the Economic Adviser, who devoted a great deal of his time and zeal in the necessary preparations clearing the way for an adequate legislative measure.

Accept [etc.]

EDGAR PROCHNIK

863.51 Relief Credits/77

*The Assistant Secretary of State (Castle) to the Minister in Austria
(Washburn)*

WASHINGTON, March 23, 1928.

DEAR MR. MINISTER: I am glad to have your letter of March 7 referring to the Austrian loan. I think you will find that the material which the Department is sending by this pouch to you, taken in connection with the Department's telegram of March 20, will adequately explain the points which arose and which had to be cleared up before the formal recommendation of the President could be forwarded to Congress.

It is, of course, too early to predict the reaction in Congress. I may, however, say that the general impression is that nobody expected to get very much out of Austria in the way of debt payments after the action was taken under the Lodge resolution. Both the Treasury and this Department will do what is possible in helping legislation through Congress. You will, however, appreciate that we can give no assurances as to what Congress may do.

I am [etc.]

W. R. CASTLE, JR.

863.51 Relief Credits/102

Memorandum by the Economic Adviser (Young)

[WASHINGTON,] April 3, 1928.

The Austrian Minister stated that he had been instructed to inform the Department in confidence that at the meeting of the relief creditors last week all the Governments, excepting Italy, agreed to accept the Austrian proposal for settlement of relief debts. The attitude of Italy, he stated, is undoubtedly caused by the Tyrol incident.

The Minister stated that as long as the United States had not adopted the legislation authorizing it to act in relation to the lien subordination and debt settlement, the Italian Government could defer action and say that the United States had not yet acted. If, however, the United States should take action, Italy would be isolated. The Minister anticipated that the British Government and possibly others would bring pressure to bear on Italy not to block the whole enterprise.

The Minister also stated that he would be very glad to go forward with actual negotiations concerning the relief debt in order that the agreement might be put in shape.

I told the Minister that no date had yet been set, so far as I knew, for hearings on the proposed legislation. This Department and the Treasury, however, would do whatever they could to keep the proposal actively before Congress. I stated that I would discuss the matter with the Treasury.⁴⁷

A[RTHUR] N. Y[OUNG]

863.51 Relief Credits/91

The Secretary of State to the Austrian Minister (Prochnik)

WASHINGTON, April 7, 1928.

SIR: I have the honor to acknowledge the receipt of your note No. 63/R of March 22, 1928, regarding the Austrian relief debt, and of your previous notes which, while discussed with you upon receipt and having the prompt and careful attention of the Government, were not severally acknowledged.

In confirmation of informal conversations, I have pleasure in enclosing copies of the President's message to Congress of March 20,⁴⁸ together with copies of the Joint Resolution introduced in the Senate and House of Representatives on March 21 (calendar day).⁴⁹

I have observed with gratification the expression, in your note of March 22, of the appreciation of the Austrian Nation and its Government for the attitude of the United States as shown both on previous occasions and in the President's recommendation to the Congress of appropriate legislation authorizing subordination of the lien and eventual settlement of the Austrian relief debt. While the action

⁴⁷ Dr. Young added a notation on April 4, 1928, as follows: "I discussed the foregoing matters with Mr. Mills. He will try to expedite the holding of a hearing. He will consider the matter of expediting actual debt negotiations, tho[ugh] little can be done toward a definitiv[e] settlement till all the Gov[ernmen]ts can agree."

⁴⁸ *Ante*, p. 897.

⁴⁹ For S. J. Res. 118 introduced by Senator Smoot of Utah, see *Congressional Record*, vol. 69, pt. 5, p. 5092; for H. J. Res. 247 introduced by Representative Burton of Ohio, see *ibid.*, p. 5139.

of this Government in these latter matters must depend on the will of the Congress exercised in view of all the considerations which it may consider pertinent, the Department of State will be happy to continue its collaboration with the Treasury Department in connection with the consideration of the proposed legislation.

In connection with this general subject, I beg to refer to the mention in your note of February 7, 1928, of the request of this Department for further information desired from the Austrian Government, and to point out that these inquiries were not an examination into the merits of the loan as an investment that may eventually be offered in the American market, inasmuch as the United States Government does not pass upon proposed financing from that point of view. The inquiries rather were made in contemplation of the governmental interest involved and with particular reference to the preparation of the information and analyses which the competent departments of the Government felt should be at hand before a recommendation could be submitted to the examination of Congress.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

863.51 Relief Credits/96

The Secretary of State to the Honorable Willis C. Hawley^{49a}

WASHINGTON, April 11, 1928.

MY DEAR MR. HAWLEY: In connection with consideration by the Ways and Means Committee of H. J. Resolution 247 concerning the Austrian debt, I desire to call attention to certain aspects of the situation which are of special concern from the stand point of our international relations.

The relief indebtedness of Austria was contracted for humanitarian reasons under authority of the Act of Congress approved March 30, 1920,⁵⁰ which authorized the furnishing of flour on credit "to relieve populations in the countries of Europe or countries contiguous thereto suffering for the want of food". Austria's relief debt to the United States, in the principal amount of \$24,055,708.92, is only about one-fifth of her total relief debt, the other four-fifths being owed to European Governments, namely, Denmark, France, Great Britain, Italy, The Netherlands, Norway, Sweden and Switzerland.

Inasmuch as Austria's relief indebtedness aggregating about \$120,000,000 plus interest thereon, will mature in 1943, and since the relief bonds enjoy a prior lien on Austria's assets and revenues, Austria can

^{49a} Chairman of the Committee on Ways and Means of the House of Representatives.

⁵⁰ 41 Stat. 548.

not obtain the funds necessary for continuation of the program of economic recuperation except by agreement of the nine creditor governments. All of these Governments but the United States have agreed to defer their liens, not only in the belief that the procurement of new capital by Austria is necessary to permit Austria to continue her difficult but successful efforts for economic progress, but also with the thought that well-considered measures for strengthening Austria will facilitate the repayment of the relief debt. Austria, for her part, has offered to commence the payment of the relief indebtedness on the basis of a plan which has already been found acceptable to most of the creditor governments and which conforms to Austria's capacity to pay. The proposed legislation provides that the terms and conditions of settlement of Austria's indebtedness to the United States "shall not be less favorable than the terms and conditions granted by Austria to any of the other relief creditor governments," to whom Austria owes 80% of the relief debt.

The reasons in favor of the United States cooperating in the plans being developed for dealing with the Austrian situation have been fully and forcefully stated to the Committee by the Acting Secretary of the Treasury, Mr. Mills. I shall not undertake to rehearse these arguments. I do, however, desire strongly to emphasize the importance, from the stand point of our international relations, of early and favorable action. The United States can not afford to be in the position of blocking this joint effort to deal with the difficulties of Austria. I am sure the Committee will appreciate that the failure of the Government of the United States to join in facilitating the program of Austrian reconstruction, besides tending to prejudice the ultimate capacity of Austria to repay our advances, would also place the United States before the world in a highly unfavorable light and would be embarrassing in the conduct of our foreign relations.

I therefore sincerely trust that it may be possible to take early and favorable action on H. J. Resolution 247.

I am [etc.]

FRANK B. KELLOGG

863.51 Relief Credits/107

Memorandum by the Economic Adviser (Young)

[WASHINGTON,] April 18, 1928.

Following the receipt of the attached letter from Under Secretary Mills,⁵¹ I telephoned the Austrian Minister, referring to his call three or four days ago and to his communication from Dr. Schüller. I called his attention to the provision of the final part of the proposed legislation, which stipulates that the United States must receive as

⁵¹ Letter of April 17, 1928; not printed.

favorable treatment as any of the creditors of Austria. I stated that the Treasury Department had considered the question, and that if the proposed legislation were adopted, the Secretary of the Treasury would not have authority to settle with Austria on the basis now under consideration unless the Italian Government should accept similar terms. The Minister stated that he would communicate in that sense to Dr. Schüller.

The Minister also stated that the representative in London of the Austrian Treasury had yesterday asked him to cable the text of the proposed legislation, and that he had done so. The Minister thinks that the question may be receiving further consideration at London.

A[RTHUR] N. Y[OUNG]

863.51 Relief Credits/113 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, May 21, 1928—5 p. m.

[Received May 21—3 p. m.]

128. Reparation 89.

1. Reference proposed new Austrian loan (see Reparation conference decision number 3670 of January 14, 1928).⁵² Austrian Government has now made application to Commission requesting that certain Austrian revenues (customs gross receipts of tobacco monopoly and such other revenues as may be required to make good any deficiencies in receipts from foregoing) be excepted in favor of the contemplated loan from the first charge under article 197 of the Treaty of St. Germain.

2. British delegation has prepared a draft decision along lines requested by Austrian Government which will be considered by the Austrian Section of the Commission on May 23 before being brought before the Commission at its meeting on the 26th. The preamble of this draft refers to the understanding that: "The states holding the relief bonds issued by Austria represented on the International Relief Bonds Committee have consented in principle to the release from the prior charge in favor of the relief bonds for the period of the new loan not exceeding thirty years of such securities as might be necessary for the said loan". [Paraphrase.] The position of the United States as a power which holds relief bonds is not referred to. Is it the Department's wish that a reference should be made in the understanding's preamble as to legislation having been introduced in the United States Congress for subordination of the lien of the United States respecting the relief bond to a lien favoring the contemplated new

⁵² See paragraph (6) of telegram No. 13, Jan. 14, 7 p. m., from the Chargé in France, p. 859.

loan? There appears to me to be nothing to be gained by such a move, and, in my opinion, the draft is satisfactory in its present form. In any case I can make a brief statement, when the question comes before the Commission, of the position of the United States, should this appear at the time to be desirable. The Austrian Section will meet Wednesday morning, May 23, and I respectfully request instructions. [End paraphrase.]

HERRICK

863.51 Relief Credits/114 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

WASHINGTON, May 22, 1928—1 p. m.

143. Reparation 49. Your Reparation 89.⁵³ Department perceives no advantage in mentioning United States in the preamble or decision.

KELLOGG

863.51 Relief Credits/115 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, May 28 [27?], 1928—6 p. m.

[Received May 28—1:45 p. m.]

137. Reparation 93. At resumption Commission meeting this morning:

1. Italian delegation blocked any action on Austrian application that certain revenues be excepted from first charge under article 197 in favor of contemplated loan (see first paragraph my Reparation 89, May 21). Their reasons for refusing to grant Austrian application purport to be:

(a) That Reparation Commission decision of January 14 last consenting in principle to the proposed loan was taken on understanding that a certain program of productive works was to be carried out. It now appears this program has been partly abandoned or modified (referring to change in plans for electrification railways). In view of this the Italians hold the Reparation Commission is released from its earlier decision.

(b) In general that Austrian economic situation is improving and does not call for such measures as are contemplated by the loan. In consequence Italians moved to refer whole question to the allied governments for consideration.

British delegation insisted vigorously that Commission is bound by terms of its earlier decision; that on strength of that decision negotiations have been undertaken with the bankers; that the Commission's

⁵³ *Supra.*

good faith is in question; that a *volte face* by the Commission would injure Austria's credit by seeming to imply that the menace of reparations would again be held over her; that the considerations involved by the Italians were before the Commission when it took its January 14 decision; that the only possible new consideration to arise since that date has been the change in program for productive works; but that in any case the Commission's decision in January was not conditioned upon its approval of any specific program of expenditures. To meet Italian view, British, with support of French and common delegations, proposed that Commission request exact information from Austria as to contemplated program for works and consider question in the light of such information, without, however, in any way going back on its January decision.

Italians refused this and, in order to block vote on the British motion, raised the question of the Commission's competence to grant exceptions to the general reparation charge under article 197, maintaining that this could be done only after authority had been given by the powers who are alone competent under article 200.⁵⁴ The Italians therefore raised the question of interpretation of these articles which fall within part nine of the Treaty and concerning which the Commission has no power of interpretation. They also announced their intention in case the Reparation Commission should eventually be called upon to act in application of article 197 to raise the question that its decision in such case must be by unanimous vote and to provoke an arbitration on this point if necessary under paragraph 13, annex 2, part 8 of the treaty.⁵⁵

It was finally decided to postpone further consideration of the question until the next meeting of the Commission set for June 23.

[Paraphrase.] At the Austrian Section meetings, May 23 and 24, it became apparent that the Italian delegates intended blocking the loan by every means possible. Their reasons for release of the Commission from its previous decision strike me as being merely a pretext. There are evidently other reasons back of the attitude they now maintain. [End paraphrase.]

4. Paragraph 1 of the foregoing mailed to Legation at Vienna for its strictly confidential information.

HERRICK

⁵⁴ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3149, 3216, 3217.

⁵⁵ *Ibid.*, p. 3209.

863.51 Relief Credits/116 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, May 29, 1928—5 p. m.

[Received May 29—3:32 p. m.]

139. Reparation 95. Reference paragraph one, my Reparation 93, May 27. I understand Italian representative on Relief Bonds Committee now opposes the Austrian loan on much the same grounds as those advanced by the Italian delegation at the Reparation Commission meeting on May 27.

HERRICK

863.51 Relief Credits/118 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, May 29, 1928—10 p. m.

27. Regret to inform you Congress adjourned today without acting upon Bill authorizing subordination of lien and debt settlement.

KELLOGG

863.51 Relief Credits/120 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, May 31, 1928—6 p. m.

[Received May 31—5:37 p. m.]

24. Department's telegram 27, May 29, 10 p. m. Keen disappointment and some despondency in official quarters. Press temperate in comment, though opposition papers seeking to capitalize incident politically. Chancellor feeling his position somewhat weakened is making statement in Parliament this afternoon and has just supplied me with advance copy of his remarks. He takes occasion to emphasize his thanks to the President and Secretaries Kellogg and Mellon for their efforts to secure passage of resolution and makes also complimentary allusion to me. He seeks to create the impression that the loan is only postponed and that with strict economy the economic consequences of the delay will not be disastrous to the State.

WASHBURN

863.51 Relief Credits/121 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, June 1, 1928—6 p. m.

28. Your 24, May 31. At a suitable opportunity you might point out informally to interested officials and in reply to press inquiries

that the resolution respecting the proposed Austrian loan did not get as far as the floor of either House, owing to the pressure of pending legislation towards the close of the recent session; that hence it was not rejected but merely not considered and that it will be taken up at the second session of the present Congress at the beginning of December and will be actively pressed.

[Paraphrase.] In case any publicity has been or hereafter may be given the Italian attitude of blocking the loan, you are to telegraph the Department. [End paraphrase.]

KELLOGG

863.51 Relief Credits/133

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] June 2, 1928.

The Italian Ambassador came to see me yesterday to tell me officially, on instructions from his Government, that Italy feels that the arrangement to make a further loan to Austria is not satisfactory. He says that Italy is not disposed to make any further sacrifices because experience has demonstrated the fact that Austria will not bear her share. As I understand it, the agreement must be unanimous if anything is to be done for Austria and if the Italian Government maintains its present stand, there will be no particular point in bringing the matter up again to Congress at the next session.

W[ILLIAM] R. C[ASTLE], Jr.

863.51 Relief Credits/122 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

[Paraphrase]

VIENNA, June 4, 1928—10 a. m.

[Received 12:37 p.m.]

25. Reference the Department's 28, June 1.

(1) A brief statement respecting the situation in Congress which I made for Thursday morning's *Freie Presse*, had, I am told, a good effect. Am sending a full report by mail.

(2) In a parliamentary declaration Thursday, Chancellor Seipel stated, "for the sake of completeness", that the adjournment of the United States Congress was not the only obstruction to suspension of the liens. Italy's attitude in the Reparation Commission, following unanimous adoption of a resolution in principle, he referred to as being attributable to the "strained relations which still exist to our regret." Differences with Italy, in the Reparation Commission and

the Relief Bonds Committee, he intimated, do not necessarily involve a "retardation" of the loan for a relatively lengthy period of time, while the adjournment of Congress to December is such a retardation. This portion of Chancellor Seipel's speech, being his first public statement concerning Italy's attitude, has been commented upon by newspapers to a considerable extent.

WASHBURN

863.51 Relief Credits/139

*Memorandum by the Economic Adviser (Young)*⁵⁶

[WASHINGTON,] June 14, 1928.

The Austrian Minister stated that he was already giving thought to the question of what steps should next be taken in connection with adoption by the United States of legislation making possible the desired loan. He had in the first instance recommended that subordination of the lien and settlement of the debt should not be separated. His Government, however, had not accepted his recommendation on that point. He now felt that it would probably be best for Austria definitely to conclude a debt settlement with the United States. He felt that the difficulty in Congress had resulted from the effort to obtain authority for making a debt settlement the nature of which had not been fully made known. He wondered whether the Government of the United States would be prepared to go ahead with a debt settlement in the near future.

I told the Minister that his suggestion raised a question whether under the terms of the bond one government could make a settlement in advance of action by all the other creditors. I stated that this Government, however, would be glad to review the whole matter carefully with a view to seeing whether any change in procedure would be desirable. I stated that I would discuss the matter in due course with the Treasury and if necessary speak informally to Senator Smoot and Mr. Burton.

A[RTHUR] N. Y[OUNG]

683.51 Relief Credits/134

The Secretary of State to the Minister in Austria (Washburn)

No. 691

WASHINGTON, June 21, 1928.

SIR: The Department transmits herewith for your confidential information the substance of a conversation which took place on June 1, 1928, between the Italian Ambassador at this capital and an Assistant Secretary of State.⁵⁷

⁵⁶ Marginal note by the Assistant Secretary of State reads: "He told me the same thing on June 21. W[illiam] R. C[astle]."

⁵⁷ See memorandum, June 2, p. 910.

The Italian Ambassador stated officially, on instructions from his Government, that the latter does not consider satisfactory the proposed present arrangement for a further reconstruction loan to Austria. He added that Italy is not disposed to make any further sacrifices because experience has demonstrated the fact that Austria will not bear her share.

Notwithstanding this attitude of the Italian Government, this Government desires to avoid, if possible, sharing with Italy the responsibility of blocking the proposed loan. For this reason and unless unforeseen developments should meanwhile occur necessitating a different course of action, the attempt to secure from the Congress the necessary legislative authority for the subordination of lien and funding of relief indebtedness will be continued at the opening of the next session in December.

You are hence requested to continue to report any developments in the situation which may be of interest to this Government or may have a bearing upon its proposed course of action.

Similar instructions are being addressed to the Missions at Rome, Paris and London.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

863.51 Relief Credits/148

The Ambassador in Italy (Fletcher) to the Secretary of State

No. 1798

ROME, July 27, 1928.

[Received August 9.]

SIR: Referring to the Department's confidential instruction No. 1017 of June 21st last regarding the proposed new reconstruction loan to Austria,⁵⁸ I have the honor to report that in the course of a conversation at the Foreign Office to-day with Undersecretary Grandi, he informed me that there had been no change in the Italian Government's attitude with regard to this matter, as expressed to the Department by the Italian Ambassador.

I have [etc.]

HENRY P. FLETCHER

863.51 Relief Credits/149

Memorandum by the Economic Adviser (Young)

[WASHINGTON,] August 16, 1928.

The Austrian Minister called this morning to discuss the question of the steps to be taken in further reference to the loan and debt settle-

⁵⁸ Not printed; see similar instruction to Minister in Austria, *supra*.

ment. He said that he had just received a letter from Dr. Schüller, stating that the Austrian Government confidently expects an early adjustment of the difficulties with Italy which lead to the blocking by the latter of the loan proposal. The Austrian Chancellor had, with great reluctance, deemed it advisable to make a statement to the effect that the questions arising in the Italian Tyrol are regarded by Austria as wholly of Italian domestic concern. The Italian representative, who had just returned to Vienna, had stated that Mussolini would change his attitude on the Austrian loan. Mr. Prochnik gathered that a settlement of the Austrian debt to Italy on the lines of the settlement made with the other European creditors is likely within a very few weeks.

The Minister stated that the Austrian Government had assured the European creditors other than Italy that it would make no settlement with Italy on terms more favorable to the latter than the terms embodied in the settlement made with the other creditors.

The Minister then raised the question of further procedure in the United States. He wondered whether it would not be better to drop the Bill introduced at the last session of Congress and submit the definitive terms of a debt settlement. He stated that the Austrian Government would be prepared to sign with the United States a debt agreement embodying terms analogous to those already agreed upon with the European creditors (except Italy) with a clause added to the effect that, in the event of granting more favorable terms to any other creditors, similar terms would be granted to the United States. I stated that I would discuss with the Treasury and others the question involved as to the tactics to be followed, and talk with him further.

I told the Minister that, having in mind the likelihood of a definite proposal by Austria as to settlement of the debt, it would be desirable that the Austrian Government submit full data in support of any proposal it might make. I recalled my previous requests for such data, and that the data had not been supplied. I further stated that other Governments in proposing debt settlements had furnished very full data. The Minister said that he had written for data, but that his Government had apparently not understood exactly what we wanted. He asked whether I would send him quite informally a statement on the subject. I undertook to consider the matter.

A[RTHUR] N. Y[OUNG]

863.51 Relief Credits/150

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] August 28, 1928.

The Austrian Minister when he came to see me yesterday said that his Government was, of course, exceedingly anxious to get through

the waiver of the lien at the next session of Congress. He says that Vienna has word that the Italians will not make any trouble. He feels, however, that Congress will not pass on this unless there has been made a debt funding agreement. He, therefore, asks whether Austria should send to this country a debt funding commission. I told him I did not know exactly with whom they would treat, if they came, but that I would find out definitely whether this would be considered a wise move.

W[ILLIAM] R. C[ASTLE,] Jr.

800.51 W 89 Austria/7

*Memorandum by the Economic Adviser (Young)*⁵⁹

[WASHINGTON,] *September 28, 1928.*

Dr. Young informed the Austrian Minister that the proposed Austrian debt settlement had recently been under consideration within the American Government and that there was every disposition on the part of the American executive branch to do everything possible to promote the enactment at the next session of Congress of the pending Joint Resolution. It would, of course, be necessary to inform Congress of the fact that since the adjournment of the last session Austria has negotiated terms of settlement with its other creditors other than Italy.

The Austrian Minister stated that he was expecting to receive in the near future an exhaustive economic and financial study which the Austrian Government, on his recommendation, had prepared for submission to the American Government in support of the proposed debt settlement. When this was received he would communicate it to the Department of State, together with official notice regarding the other debt settlements which Austria had negotiated.

The Austrian Minister referred to his previous suggestion that his Government might send representatives to negotiate a settlement with the United States. He was told that, after consideration, the American Government did not want to be in the position of taking any responsibility for the dispatch of such representatives. It was felt that the presence in Washington of such a Commission, while the Joint Resolution is pending, might be misconstrued. The Austrian Minister stated that he had recommended to his Government that Dr. Schüller be sent and had been informed that the latter would come to Washington, about November 15. He had felt that Dr. Schüller would be of real assistance to him and also relieve him of some of the responsibility in case the Resolution was not enacted during the next short session. It would be difficult for him

⁵⁹ The American Minister to Austria and Mr. Livesey from the Office of the Economic Adviser were also present at this conversation.

to recommend against Dr. Schüller coming. He would report the doubt whether the visit would be helpful and he requested Minister Washburn to discuss the matter with the Austrian Foreign Minister and Dr. Schüller at an early date after his arrival in Vienna. It was suggested that in case only one man came, presumably Dr. Schüller, and visited the Legation quietly to assist the Minister in the matter, there might be no ill effect. It was for the Austrian Government to determine whether it desired to take the possible risk which had suggested itself to the minds of the American officials.

A[RTHUR] N. Y[OUNG]

863.51 Relief Credits/166

The Minister in Austria (Washburn) to the Secretary of State

No. 1992

VIENNA, October 22, 1928.

[Received November 10.]

SIR: I have the honor to report that upon the first day of my return from the United States, on Thursday last, the 18th instant, I had a long conversation with Dr. Schüller at his earnest request. The Foreign Office informed me on that day also that the Chancellor was anxious to see me at the earliest possible moment. He made a special appointment for me on Saturday. The loan and the action of Congress upon the favorably reported House Joint Resolution 247 (70th Congress, 1st Session) were the main topics of conversation upon both occasions.

Dr. Schüller will go to the United States—as the Department will have already gathered from the Legation's despatch No. 1987 of the 17th instant.⁶⁰ It will be recalled that the wisdom or unwisdom of sending an Austrian commission or representative to the United States in the near future was alluded to recently in conversations which I had at the Department with the Secretary, Assistant Secretary Castle and Dr. Young. Minister Prochnik participated in an interview at the Department with the Economic Adviser and myself where the same subject was broached.⁶¹ The reasons for sending Dr. Schüller, as given by the Chancellor and himself, may be thus summarized:

1. The political factor. The Chancellor, and especially Finance Minister Dr. Kienböck (as I reported last spring), are anxious to have the record show that every possible eventuality was anticipated. In the event of mishap—a contingency which is regarded as remote—they want to avoid the reproach, whether from political associates or adversaries, that something was left undone which if done might have crowned the loan efforts with success. Schüller has conducted all

⁶⁰ Not printed.

⁶¹ See memorandum, *supra*.

the negotiations with the Austrian Committee of the League, with the Relief Credit Committee and with the Reparation Commission. He has been to London, Paris and Geneva. He talked with Mussolini in Rome many months ago. Why should he not go to Washington?

2. It is recognized that some emergency may develop unexpectedly. Schüller will have a *plein pouvoir* and will be empowered to deal with any situation which may arise. Congress or a Committee of Congress may desire certain information. Prochnik may not have it at his finger tips. Schüller will and he will be, for several weeks any way, within reach—in the background always and making all communications through his Legation, unless the wish should be expressed to see or talk with him personally. If a formula should be desired to satisfy the United States in the event that Italy should ultimately get a more favorable relief debt settlement than the other relief creditor States, Schüller, with his *pleins pouvoirs*, can give it. The possibility that Italy will or can get more favorable terms is, however, scouted. The 1929 budget will carry a 10,000,000 schillings item, as I understand, to provide for the first of the forty annual installments for the liquidation of all the relief debts, providing the assent of all the relief creditor States be first attained. As is well known, it remains for the United States and Italy to act.

Schüller will be in a position to explain all these and other relevant matters to the Department, if desired. I recall, for example, that some natural curiosity was expressed at the Department about the conditions surrounding the issue of the Austrian renewal bonds of January 1st, 1925. These bonds consolidated, with the principal due, the unpaid interests which had accrued up to this date, but reduced the rate of interest from 6 to 5½ per cent. These renewal bonds were issued as the result of negotiations with the Relief Credit Committee, of which the United States is not a member. The European creditor powers, so Schüller says, were not, as a result of this action, put in a more favorable position than the United States. The renewal bonds, even with the consolidation of principal and interest, are, because of the interest reduction, slightly less desirable than the original 6 per cent bonds which have never been exchanged by the United States.

3. Schüller has never been in the United States. He has long wanted to go there and the Government, as Seipel intimated, has for some time been quite willing to avail itself of an opportunity to send him there. As its leading economic expert, it is thought that an American visit might be a useful asset for him in the future. He plans to visit New York, Chicago and other places. He will not hang around Washington any more than may be necessary, but he will always be within reach. He will not go to the United States with a brass band and will discourage any dinner or other exploitation. He

will remain, unless I am greatly mistaken, very much in the background. This is quite in accord with his own personal preference, for he is a modest man and senses himself the danger of any undesirable publicity. I have always found him to be a man of superior tact and he does not, I may say in passing, lack finesse.

I can quite understand Minister Prochnik's motive in recommending originally that Schüller be sent. The Minister did not conceal from me his desire to have someone to share the responsibility with him nor his desire to have an alibi if anything should go wrong. Schüller's oral report will help the Austrian Government to understand some aspects of American conditions more clearly than would be possible through written despatches.

4. There is the possibility, and indeed the hope, that Schüller may, before his return, conduct some negotiations with the Morgan firm. Schüller tells me that there has been no interchange of communications with this firm for many months. He says quite plausibly that there has been no reason to negotiate, and had the Austrian Government taken any steps in this direction it would probably have been met with the reply that such a proposal was premature. If Congress should act favorably while Schüller is in the United States he would be useful in discussing the details of the securities to be pledged. The Reparation Commission and the underwriting bankers, whoever they may be, must meet on common ground here. A formula must be found which both will accept. It is Schüller's idea that with some slight modifications perhaps, the formula which was adopted in 1922 will again serve in 1929. In other words, the new loan will be on about the same terms as the old one—with this difference, that there will be in 1929 no guarantor powers as there were in 1922.

I have [etc.]

ALBERT H. WASHBURN

863.51 Relief Credits/152

The Austrian Minister (Prochnik) to the Secretary of State

No. 158/R

WASHINGTON, November 14, 1928.

EXCELLENCY: As Your Excellency is aware, a proposal for the final settlement of the indebtedness in respect of Relief Bonds of the series "Relief Bonds Series B of 1920 (Renewal Bonds)" maturing on January 1st, 1943, issued by Austria, was on June 15th, 1928, offered by the Federal Government of Austria, through the Austrian Minister in London, to the International Relief Bond Committee and accepted by said body in the name of the Governments of Denmark, France, Great Britain, Netherlands, Norway, Sweden and Switzerland. I am submitting herewith as enclosure marked A (A1, A2, A3, A4)⁶² the

⁶² Enclosures not printed.

pertaining correspondence exchanged between the International Relief Bond Committee and the Austrian Legation in London. Negotiations are pending with Italy for her adherence to said agreement, and in this connection I am authorized to state on behalf of my Government that Italy shall not receive a more favorable settlement than that offered to the United States of America and the other aforementioned creditor Governments and that the Federal Government of Austria is ready to reserve to the United States of America full equality in regard to terms ultimately to be agreed upon with the Italian Kingdom.

As Your Excellency is also aware, the aforesaid negotiations dealt with "Renewal Bonds" bearing five per cent interest issued by Austria in place of the original six per cent Relief Bonds of Series B of 1920 which by their terms matured January 1st, 1925, but the payment of which was postponed to June 1, 1943, in connection with the international cooperation in aid of the flotation of the "Austrian Government Guaranteed Loan of 1923-1943". The new settlement of the relief debt with the European creditor Power takes the form of an endorsement which has to be signed by Austria and the respective creditor State on the back of the Renewal Bonds. This endorsement simply contains the new plan of payment, while, as for the rest, it provides that the other former provisions of the bond shall remain in force. As the United States Treasury has not taken a Renewal Bond as of January 1st, 1925, and has not taken bonds in representation of annual interest accrued since January 1st, 1925, as the European creditor Powers have done, but still retains the original relief bond of 1920 in the amount of \$24,055,708.92, I presume that the terms of settlement set forth in the enclosed correspondence of 15th June 1928 are not textually applicable in a proposal for the settlement of the Austrian relief indebtedness to the United States.

With this explanation of the lack of verbal identity with the terms of settlement with the European creditor Powers, I have the honor, on behalf of the Federal Government of the Republic of Austria, to submit to Your Excellency the following proposal for the final settlement of the indebtedness in respect of the relief bond of the series "Relief Bond Series B of 1920" held by the United States Treasury in the principal amount of \$24,055,708.92.

Calculated in conformity with the provisions of the settlement with the abovenamed European Governments, with interest at the rate of 6 per cent, the debt owed to the United States increased up to December 31, 1924, to \$31,069,155. With interest at the rate of 5 per cent from January 1, 1925, to December 31, 1927, it would have risen to \$35,966,461. This would decrease to a final amount of \$33,428,500 when the same reduction as agreed upon with other creditor States

such as Denmark, France, Great Britain, Norway, Sweden and Switzerland is proportionately applied to the said indebtedness.

The Federal Government of Austria now offers to pay the sum of \$33,428,500 (Thirty three million Four Hundred Twenty-eight Thousand Five Hundred Dollars) in full and final settlement of this debt, in 25 annuities of \$1,337,140 (One Million Three Hundred Thirty-seven Thousand One Hundred-Forty Dollars) each on the 1st January 1943 and on the 1st January of each subsequent year to 1967 inclusive. Austria shall, however, have the option of paying, instead of the aforesaid annuities, the following instalments:

On January 1st 1929 and on the same date of the following four years five annuities of \$287,556 each, total	\$1, 437, 780
On January 1st 1934 and on the same date of the following nine years ten annuities of \$460,093 each, total	\$4, 600, 930
On January 1st 1943 and on the same date of the following 24 years twenty-five annuities of \$743,047 each, total	\$18, 576, 175
Grand Total	\$24, 614, 885

Provided, however, that if Austria shall exercise this option the obligation of Austria to pay annuities during the years 1929 to 1943 will in the case of each annuity not arise if the trustees of the Austrian Government Guaranteed Loan 1923-1943 have, prior to the preceding 1st December, raised objection to the payment of the annuity in question on the date due. To the extent, if any, that any such annuity is not paid by reason of such objection on the part of the trustees, the amount thereof, together with interest at 5% compounded annually to 31st December 1943 shall be repaid together with further interest at 5% by 25 equal annuities on 1st January of each of the years 1944 to 1968, inclusive.

Except in so far as the terms of payment contained in this proposal involve modification of the terms of the Relief Bonds Series B of 1920, these shall remain in force as regards all the terms and conditions set forth therein, including in particular those relating to the method, place, and currency of payment, the exemption from Austrian taxation, the similar treatment for all creditor Governments, the charge on Austrian assets and revenues and the priority over reparation, and in particular if the Government of Austria should at any time without the assent of the creditor Governments pay or attempt to pay any sum whether in respect of reparations or by way of compensation for any non-fulfillment of the obligations of Austria under Article 184 of the Treaty of St. Germain, the amount owing under the original terms of the aforesaid bond as expressed

on the face thereof for principal monies and for any arrears of interest at 6% to January 1st, 1925, and at 5% thereafter shall forthwith be paid in cash by Austria in priority to any such payments under the said treaty.

On the acceptance of the proposal Austria agrees that the Government of the United States shall communicate the proposal and its acceptance to the Reparation Commission in order that the Commission may take note thereof.

I am furthermore authorized to state that the Austrian Government have decided to exercise the option under the terms of the above proposal regarding the funding of the relief bond of Austria held by the Government of the United States, subject to the reservation set forth above in case objection be raised by the trustees of the Austrian Government Guaranteed Loan 1923-1943 to the payment of annuity during the years 1929 to 1943. In this connection, Your Excellency will recall that, because an obligation on the part of Austria to make amortization payments prior to 1943 would have been contrary to the arrangements made when the "Austrian Government Guaranteed Loan 1923-1943" was concluded, the right was reserved to Austria in the arrangements of June 15, 1928, to make use of an option to the effect that in place of the method of paying in twenty-five annuities beginning in 1943, Austria may pay off her relief debts in forty yearly instalments beginning in 1929. In a letter of June 11, 1928, to the International Relief Debt Commission, the Austrian Minister at London stated that he had indeed no reason to believe that, in fact, the trustees of the Austrian Government Guaranteed Loan 1923-1943, will wish to veto any of the anticipatory payments on account of the relief debt unless such payment is in their opinion against the interest of the bondholders of that loan.

The Federal Government of Austria believes that with the above stipulated proposal for the settlement of relief debts, they have reached a fair and reasonable limit of the country's paying capacity. The total principal amount of the Austrian relief debts of Series B of 1920, in representation of which bonds in the respective foreign currencies carrying interest at the rate of 6 per cent per annum and redeemable on January 1, 1925, were issued, is equivalent to approximately 848,500,000 Austrian schillings. With interest at 6 per cent up to December 31, 1924, and at 5 per cent from January 1, 1925, to December 31, 1927, the amount up to January 1, 1928, was the equivalent of 1,250,759,390 Austrian schillings. If the basis of settlement accepted in the arrangements of June 15, 1928, is accepted by the United States and Italy, Austria would have to repay this debt in twenty-five equal annuities of 46,500,000 schillings from 1943 to 1967. That is, there would be a total payment of 1,162,500,000 schillings, representing a reduction of approximately 7 per cent from

the indebtedness stated above as of January 1, 1928. In exercising the option to pay from 1929, Austria would have to pay total yearly instalments of 10,000,000 schillings from 1929 to 1933; 16,000,000 schillings from 1934 to 1943 and 25,840,000 schillings from 1944 to 1968, these payments representing the same present value as the payments of twenty-five annuities of 46,500,000 schillings each from 1943 to 1968.

A statement of Austria's economic and financial situation is submitted to Your Excellency with this note, as an enclosure, marked B.⁶³

Accept [etc.]

EDGAR PROCHNIK

863.51 Relief Credits/168

Memorandum by the Economic Adviser (Young)

[WASHINGTON,] November 20, 1928.

The Austrian Minister called by appointment to present Dr. Schüller to the Secretary of State. Dr. Schüller conveyed to the Secretary of State the greetings of the Austrian Premier, which the Secretary asked Dr. Schüller to reciprocate.

In the course of a brief conversation, the Secretary stated that both the President and himself are strongly in favor of taking suitable action on the lines already commenced, and that every effort would be made to obtain appropriate legislation as to the questions of the Austrian debt and loan.

The Secretary stated it had been decided that conversations with the Minister and Dr. Schüller would be carried on by the Under Secretary of the Treasury and the Economic Adviser, and that the matter would be referred to Secretary Mellon and himself as occasion required.

A[RTHUR] N. Y[OUNG]

863.51 Relief Credits/167

Memorandum by the Economic Adviser (Young)

[WASHINGTON,] November 20, 1928.

Dr. Schüller said that this was his first visit to the United States. He had come prepared to be at the call of the Austrian Minister as technical adviser in respect of the relief debt settlement but he would be glad if circumstances proved such that he was not called on. He proposes to visit Pittsburg, Chicago, Minneapolis, etc. but always subject to the call of the Legation and always gladly at the disposition of American officials who might call on him for information. He had come very quietly, had seen no one in New York and had escaped the notice of the ship reporters.

⁶³ Not printed.

One purpose of his coming was to quiet political comment in Austria. The Austrian public does not understand the debt situation. They hear that reparations are a first charge on Austrian assets, that the relief debts of 1920 are also a first charge on Austrian assets, and that the reconstruction loan of 1923 is a first charge also and with priority over the other first charges. An Austrian province wishes to borrow and has no trouble in floating a loan. Vienna has no trouble in floating a loan on favorable terms. The Austrian Government has for two years been trying to float a loan and Dr. Schüller has been running around Europe in circles but no loan is forthcoming and the Austrian public is told that the American Congress must act on the matter. The public knows that Dr. Schüller has come to the United States and this fact will keep them quiet for a few weeks at least. The Austrian Government understands the American situation but the people do not. In Austria the Government would present a matter of this kind to the legislature in the morning and have its law by noon. The Government of course recognized that this could not be done in the United States and was very thankful for the attitude which the American Government had shown in the matter.

In discussion of the present status of the Enabling Act, Dr. Schüller said that he would be glad if his technical knowledge could be of service in the drafting of an agreement which might be of possible use now and which would at least be necessary sometime. He would also draft a simple and comprehensive statement of the whole matter for the use of officials considering the matter.

During the conversation it developed that Austria considers the agreement negotiated June 15 with the Governments of Denmark, France, Great Britain, Holland, Norway, Sweden and Switzerland⁶⁴ to be now in force. Accordingly on January 1, 1929, it will make the payments provided for in the optional schedule of payments set forth in Annex 2 of the letter of the Austrian Minister at London to the International Relief Bonds Committee, dated June 15, 1928.⁶⁴ At the same time it will make corresponding payments to the United States and to Italy as required by the following paragraph of the Relief Bonds of 1920:

"The Government of Austria agrees that no payment will be made upon or in respect of any of the obligations of said series issued by the Government of Austria before, at or after, maturity, whether for principal or for interest, unless a similar payment shall simultaneously be made upon all obligations of the said series issued by the Government of Austria in proportion to the respective obligations of said series."

There was nothing in the Relief Bonds of 1920 which required that simultaneous settlements of the relief debt be made with the various

⁶⁴ Not printed.

creditor Governments. The obligation for equality of treatment was that quoted in the above-mentioned paragraph and Austria could meet the obligation by making simultaneous and similar payments to all the creditors. In the case of a Government which had not concluded a settlement with Austria, the payment would simply be a payment on account. He considered, however, that Austria is now in a position to make a definite settlement with the United States, including a clause reserving to the United States equality of treatment with any superior terms which might later be granted to Italy. It was of course possible that Austria might not obtain the subordination of the relief liens in favor of the proposed investment loan. The relief debt settlement was not offered in consideration of the subordination of the lien as Austria desired in any event to simplify its debt structure.

A[RTHUR] N. Y[OUNG]

863.51 Relief Credits/164 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, December 7, 1928—5 p. m.

40. Before the Ways and Means Committee December 7 the Under Secretary of the Treasury submitted the proposed Austrian debt agreement.⁶⁵ Committee will consider amended joint resolution authorizing the subordination of the lien in favor of the proposed investment loan and the conclusion of a debt agreement set forth in general terms in the resolution.

KELLOGG

863.51 Relief Credits/171 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, December 12, 1928—noon.

42. Department's 40, December 7, 5 p. m. House of Representatives adopted amended resolution December 11.⁶⁶

KELLOGG

⁶⁵ Printed in *Austrian Debt Settlement: Hearings before the Committee on Ways and Means, House of Representatives, 70th Cong., 2d sess., on H. J. Res. 340, etc.* (Washington, Government Printing Office, 1928), pt. 2, p. 13.

⁶⁶ In telegram No. 204, Reparation No. 79, June 15, 1929, to the Embassy in France, the Acting Secretary of State (Clark) said in part: "House Joint Resolution 340 . . . passed Congress and was approved by the President February 4, 1929 [45 Stat. 1149]. No further congressional action approving the agreement will be required. Austria has made payment due January 1, 1929, under agreement. It is not contemplated that agreement will be signed until the Reparation Commission has taken action indicated in paragraph six of the agreement and until the Secretary of the Treasury is satisfied that such action is adequate to guarantee to the bonds to be issued thereunder the same security as the relief bonds of 1920 and priority over costs of reparation. This government would be glad to see an early settlement of this matter." (File No. 863.51/899.)

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND AUSTRIA, SIGNED JUNE 19, 1928⁶⁷

711.632/15

The Secretary of State to the Minister in Austria (Washburn)

No. 459

WASHINGTON, May 12, 1926.

SIR: The Department has given attentive consideration to the suggestions made by the Austrian Government in relation to the proposed Treaty of Friendship, Commerce and Consular Rights between the United States and Austria, which were communicated and discussed in your despatches No. 374 of December 18, 1923,⁶⁸ and No. 419 of March 4, 1924.⁶⁹ It desires that you renew the Treaty negotiations with the Austrian Government and bring to the attention of that Government the views of this Government in regard to its proposals as they are hereinafter stated.

In the progress of the negotiation of the Treaty of Friendship, Commerce and Consular Rights with Germany which was signed December 8, 1923,⁷⁰ some seven or eight suggestions were made by the German negotiators which resulted in minor changes in the text of articles which also are in the draft which you submitted to the Austrian Government. As this Government considers that uniformity in every particular in which it is possible is essential in all the treaties of the series which it is negotiating, it is hopeful that these changes will be acceptable to the Austrian Government. They are hereinafter referred to in the regular order of the Articles of the draft along with this Government's comments on the Austrian counter proposals.

Preamble. It is desired that the title of the Treaty as stated in the Preamble, shall be "Treaty of Friendship, Commerce and Consular Rights". This title is used in the Treaty with Germany (Treaty Series No. 725) and in treaties of the same type which have been signed by the United States with Hungary, Esthonia and Salvador.⁷¹

Article I. With reference to Article I, the Austrian Government proposed:

1. That the word "agricultural" be included in the first paragraph of Article I, so as to provide for the leasing of lands for agricultural purposes as well as for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes.

⁶⁷ For previous correspondence, see *Foreign Relations*, 1925, vol. I, pp. 516 ff.

⁶⁸ *Ibid.*, 1923, vol. I, p. 413.

⁶⁹ Not printed.

⁷⁰ *Foreign Relations*, 1923, vol. II, p. 29.

⁷¹ Treaty between the United States and Hungary, signed June 24, 1925, *Foreign Relations*, 1925, vol. II, p. 341; between the United States and Estonia, signed Dec. 23, 1925, *ibid.*, p. 70; between the United States and Salvador, signed Feb. 22, 1926, *ibid.*, 1926, vol. II, p. 940.

2. That provision be made in Article I, for the acquisition of land by the nationals of the High Contracting Parties on the same terms as nationals of the most favored nation.

3. That the following provisions be incorporated in Article I of the treaty :

(A) "The nationals of each High Contracting Party, who have their residence in the territories of the other and who should come to be expelled by judgment at law, by police measures legally applied and executed, or by virtue of the police regulations concerning public morals and paupers, shall be received with their families in any case by their native country.

(B) "The High Contracting Parties engage themselves reciprocally to give to indigent nationals of the other who fall ill, become mentally deranged or meet with an accident within their territories the same care and the same treatment accorded to their own nationals until the deportation can be effected without prejudice for the person concerned or for others.

(C) "For the costs incurred in such cases and for the burial of dead paupers, no reciprocal compensation shall take place at the charge of State, Province, Municipality or other public funds; merely a private redress being reserved against the person concerned or others who may be under such obligation."

With respect to the first amendment proposed by Austria it may be said that there is a very practical reason why it would not be advisable for the Government of the United States to confer upon aliens by treaty the right to lease lands for agricultural purposes. The owning and leasing of agricultural lands by Japanese have been regarded as a menace in California and possibly one other Pacific Coast State, and the Treaty of Commerce and Navigation of 1911 between the United States and Japan⁷² (3 *Treaties, Conventions*, etc., page 2712, Article I), was carefully worded so as to avoid conferring upon Japanese the right to own land in the United States or to lease it for agricultural purposes. If the United States were to conclude a treaty with Austria conferring upon Austrian nationals the right to lease land in the United States for agricultural purposes, the Government of the United States would be in the position of discriminating in this respect, in behalf of Austrian nationals and thus against Japanese, and of creating by treaty with Austria such a discrimination against Japanese as Japan complained had been made by the Alien Land Law of California.⁷³) The leasing of lands for agricultural purposes in the United States is regarded as a matter peculiarly of local concern to be regulated by the legislatures of the several states in which it is deemed inadvisable for the Federal Government to intervene. The first paragraph of Article I, as submitted in the draft, is identical with the correspond-

⁷² *Foreign Relations*, 1911, p. 315.

⁷³ See *ibid.*, 1920, vol. III, pp. 1 ff.

ing provisions of the Treaty of Friendship, Commerce and Consular Rights between the United States and Germany, signed December 8, 1923, and no controlling reason is perceived for modifying that paragraph.

What has been said above with respect to discrimination is applicable also to the second amendment proposed by Austria. It appears, however, that the right of nationals of foreign countries to own land in Austria is conditional upon the reciprocal right of Austrian nationals to own land in the country of the foreign national concerned.

A strong reason why it is undesirable for the United States to conclude a treaty with a provision granting a most favored nation right to own real estate is that the Treaty of Friendship, Commerce and Navigation of 1853 between the United States and the Argentine Republic (1 *Treaties, Conventions*, etc. page 20), contains a provision in Article IX that may be regarded as conferring upon Argentine nationals the right to acquire real property in the United States. This right would, by virtue of that Treaty, become available to the nationals of any country with which the United States concludes a treaty containing a provision securing most favored nation treatment with respect to acquiring real property. It is the policy of this Government to avoid including a most favored nation clause in the treaties which it concludes until the Treaty of 1853 with the Argentine Republic shall have been amended so as to eliminate the provision hereinabove referred to, abrogated, or replaced by a new treaty which does not contain that provision.)

It appears from your despatch No. 324 of December 29, 1923,⁷⁴ that the exclusion of Austrian citizens from the privilege of owning land in some of the states of the United States would have the effect, in the absence of a treaty provision on the subject, of depriving all American citizens of the privilege of acquiring land in Austria. In view of the existing state of Austrian law on the subject of the acquisition of landed property by aliens, a provision could be inserted in the treaty between the United States and Austria similar to the provision on the subject included in the Treaty of Amity and General Relations between the United States and Turkey, signed at Lausanne, August 6, 1923,⁷⁵ which was as follows:

“As regards the acquisition, possession, and disposition of immovable property the nationals of each of the High Contracting Parties shall enjoy in the territory of the other, subject to reciprocity, the treatment generally accorded to foreigners by the laws of the place where the property is situated; accordingly, they may own, lease, and construct buildings and appurtenances for residential purposes or for any other purpose permitted by the present Treaty.”

⁷⁴ Not printed.

⁷⁵ *Foreign Relations*, 1923, vol. II, p. 1153.

The provision in the Treaty with Turkey on the subject of immovable property was accepted by the Department reluctantly after a diligent effort had been made to have the Turks agree to omit it. It is believed that it would be preferable to endeavor to induce the Austrian Government to accept the first Article of the Treaty as it stands in the original draft rather than to amend it as contemplated by this suggestion regarding the ownership of land.

If, however, the Austrian Government will not agree to accept the first paragraph of Article I, in the original form you are authorized to propose the three following paragraphs in lieu thereof. The first of them contains the provisions of paragraph 1 of Article I, except those relating to property; the second contains the provisions so withdrawn from the first paragraph; and the third contains the provisions of the paragraph quoted above from the Treaty with Turkey, the last clause thereof having been stricken out to avoid repetition of provisions in the preceding paragraph.

“The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.”

“The nationals of each of the High Contracting Parties within the territories of the other shall be permitted to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes upon the same terms as nationals of the country.”

“As regards the acquisition, possession, and disposition of immovable property, except as regards the leasing of lands for specified purposes provided for in the foregoing paragraph, the nationals of each of the High Contracting Parties shall enjoy in the territory of the other, subject to reciprocity, the treatment generally accorded to foreigners by the laws of the place where the property is situated.”

The Department has noted the discussion reported on pages two and three of your despatch No. 374 of December 18, 1923, which you had with the Austrian experts, in regard to the application of the closing words of the first of the foregoing three paragraphs, namely:

“. . . and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms

as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established”.

and confirms your explanation made to them that the condition relates to all matters dealt with in the paragraph. A similar condition in more condensed form, namely;

“ . . . upon the same terms as nationals of the country”.

is included in the second of the foregoing paragraphs.

This Government understands the condition of reciprocity required in the last of the foregoing paragraphs to relate to the laws of the political division by which the acquisition, possession and disposition of immovable property are governed. The Department infers from the discussion in your despatch that in Austria the matter is governed by national legislation and that the law is uniform throughout the Republic. In the United States these matters are governed by State law. Therefore, nationals of the United States who are citizens of states which grant to citizens of foreign countries the right to acquire, possess and dispose of real property would have the right under the provision here proposed to the treatment generally accorded by the laws of Austria to nationals of foreign countries on condition of reciprocity. Nationals of the United States, citizens of States which deny to citizens of foreign countries the right to acquire, possess and dispose of immovable property would obtain no rights in Austria under the paragraph. The right of citizens of Austria in the United States to acquire, possess and dispose of immovable property, would be recognized in States in which such rights are accorded to citizens of foreign countries on condition of reciprocity upon a showing in the particular case that such reciprocity is furnished by Austria. There are States of the United States in which such rights are extended to aliens without reference to reciprocity and probably others in which the rights are restricted or wholly denied.

It is not believed that this Government should consent to add to Article I, of the Treaty, the paragraphs proposed by Austria obliging the respective countries to receive their nationals deported from the other country, and agreeing to accord indigent nationals of the other, the same care and treatment as is accorded their own nationals.

The Government of the United States has not experienced any difficulty in having deported aliens received in the countries of which they are nationals. The difficulties experienced by this Government in deporting aliens grow out of disputed nationality. It is believed that all governments receive their nationals who are deported from another country. There have been cases in which governments refused to receive deportees because they were not regarded as nationals. The

proposed addition to Article I, on this subject, would not cure this situation, and it is not believed that the proposed addition would serve any useful purpose so far as the United States is concerned.

It is not believed that discrimination is practiced to any considerable extent in the United States in caring for indigent aliens as compared with nationals. In the United States this matter is given attention by the local State or Municipal authorities, or by private charitable organizations, and this Government would find it difficult to agree to include a provision in regard to it in a treaty.

The Department concurs in your view that difficulties might arise with respect to the observance of the provisions of the last of the three additional paragraphs (paragraph C) proposed to Article I, because of the distribution of jurisdiction over the matters dealt with between the Federal and State Governments in the United States. For this reason the paragraph is unacceptable to this Government. The Department agrees also that the revised form suggested by you is merely declaratory of existing practice. For this reason it believes that it is unnecessary and undesirable to include a provision of the kind in the Treaty.

In the negotiation of the Treaty of December 8, 1923, between the United States and Germany, an agreement was reached to insert in the fifth line of the second paragraph of Article I, after the word "taxes", the words "other or" so that the expression shall read "taxes other or higher" and the entire paragraph will read—

"The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals."

This Government desires that this amendment be made in the Treaty under negotiation with Austria.

The Senate of the United States in giving its advice and consent to the ratification of the Treaty signed with Germany on December 8, 1923, made a reservation to the effect that there should be added to Article I, of the Treaty the following:

"Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or the right of either of the High Contracting Parties to enact such statutes."

This reservation was accepted by Germany. From the point of view of this Government the views of the Senate in regard to this matter must be recognized in all treaties concluded by the United States containing provisions relating to the rights of aliens to enter the United States. You are, therefore, instructed to propose to the

Austrian Government that such a paragraph be added as the last paragraph of Article I, of the Treaty under negotiation.

Article III. This Government asks that the words "and other places of business" be inserted in the second line of Article III after "shops". The word "and" before "shops" will as a consequence be omitted. It also asks that the words "and all premises thereto appertaining" in the fifth line of the Article in the draft be placed immediately after the newly inserted words. Article III will then read as follows:

"The dwellings, warehouses, manufacturies, shops, and other places of business, and all premises thereto appertaining of the nationals of each of the High Contracting Parties in the territories of the other, used for any purposes set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals."

This is one of the changes introduced in the negotiation of the Treaty with Germany.

Article IV. This Government desires that there be inserted in the tenth line of the first paragraph of Article IV after the word "Party", the words "whether resident or nonresident", the rest of the paragraph and article to remain unchanged. This also is a change resulting from the negotiations with Germany. The words "whether resident or nonresident" appear in the second paragraph of this Article, and expressing them in the first paragraph has the advantage of giving uniformity of phraseology where difference might give rise to a question whether a difference of meaning is intended.

Article V. Austria proposes to modify the provisions in this Article regarding the right to conduct religious services by the proviso that the teachings and practices are not inconsistent with public order or public morals, and that they conform to all laws or regulations duly established, and to replace the word "reasonable", as used with reference to mortuary and sanitary laws and regulations, with the word "established".

The proposed amendments of Article V appear to the Department to entail no substantial modification in the meaning of the Article and very little change in form. In view of your report that Austria attaches considerable importance to the suggestions with respect to the modification of Article V because it is desired to bring that Article into close harmony with provisions in the Treaty of St. Germain,⁷⁶ and Austrian legislation, and the further fact that the

⁷⁶ Malloy, *Treaties*, 1910-1923, vol. III, p. 3149.

adoption of these changes would not effect any material change in the meaning of the Article, the Department authorizes you to accept the proposed changes.

Article VI. Article VI of the treaty provides that in the event of war between either High Contracting Party and a third state, such Party may draft for compulsory military service the nationals of the other having a permanent residence within its territories who have declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territory of the belligerent within sixty days after the declaration of war. Austria expressed a desire to have Article VI omitted. It expressed a willingness, however, to waive, by a protocol or by notes to be exchanged at the time of signing the treaty, the right to object to the drafting of Austrian nationals within the limitations of Article VI.

It appears from your report that the Austrian Government fears that if it concludes a treaty containing such a provision, Austria may be regarded as unneutral in its attitude toward friendly nations with which the United States might be at war. It is not believed by this Government that such a provision in a treaty could be regarded as placing either Party to the treaty in the position of disregarding its obligations of neutrality in the event of one of the parties to the treaty becoming a belligerent.

In view of the large alien population in the United States and the effect which the abandonment of the Article in the negotiations with Austria would have on other treaty negotiations in which this Government is engaged, the Department would regard the omission of the Article from the Treaty with Austria or the relegation of the provision to a supplemental protocol or exchange of notes as distinctly prejudicial to the interests of the United States. This Article is included in the Treaty of the United States with Germany signed December 8, 1923, and in the Treaty signed with Hungary June 24, 1925. The German and Hungarian negotiators both expressed the doubts of their Governments in regard to the acceptance of the provision but after discussion it was accepted by both Governments. It is probable that Austria may not be inclined to insist upon the omission of Article VI inasmuch as it is contained in the treaties of the United States with these two countries.

The Department's views and instructions in regard to the succeeding Articles of the Treaty will be transmitted promptly in subsequent instructions. You are authorized in your discretion and at the option of the Austrian Foreign Office to renew the negotiations with respect to the Articles discussed in this instruction without awaiting the receipt of instructions in regard to the remaining articles.

I am [etc.]

FRANK B. KELLOGG

711.632/21

The Minister in Austria (Washburn) to the Secretary of State

No. 1106

VIENNA, July 20, 1926.

[Received August 9.]

SIR: I have the honor to acknowledge the receipt of Department Instruction No. 459 of May 12 last, incorporating instructions with respect to the first six articles (excepting Article II) of the proposed Treaty of Friendship, Commerce and Consular Rights between the United States and Austria. I was authorized in my discretion and at the option of the Austrian Foreign Office, to renew negotiations with respect to the articles discussed without awaiting the receipt of instructions in regard to the remaining articles.

Since the end of May when the instruction under reference was received, most of the Austrian officials who were consulted in connection with and who constitute a sort of committee upon this treaty, have been absent on leaves of six weeks or two months. This is especially true of Minister Plenipotentiary Dr. Wildner and Ministerialrat Sammaruga [*Sommaruga*]. The former has only just returned and the latter is still absent. Sektionschef Dr. Richard Schüller, mentioned in my despatch No. 374 of December 8 [18], 1923, dealing with this same subject-matter, the most influential and prominent of all Austrian treaty negotiators, is much absent on official missions. During recent visits in Vienna as opportunity offered, I have had several highly satisfactory interviews with him, the last one being on the 14th instant, the day of his departure on two months' vacation leave. We have reached an understanding on practically all the matters in controversy, one provision only remaining unsettled. This understanding was, however, not reduced to writing and confirmed. It would have been an obvious breach of official etiquette to have taken such action in the absence of Dr. Schüller's colleagues. He is, however, to all intents and purposes, paramount in such matters, and I have not had occasion to complain of any breach of oral understandings with him. It is true that upon one or two occasions after a long lapse I have found that his recollection of a conversation did not in every detail agree with the memoranda made by me at the time, when the matter was still fresh in my mind. It is always possible that some of Dr. Schüller's colleagues may subsequently raise objections to which he will feel bound to give heed. Subject to this reservation, which I do not regard as likely for he did not seriously raise it himself, the following understanding was reached:

Preamble. The suggestion that the title of the treaty shall be "Treaty of Friendship, Commerce and Consular Rights" was accepted.

Article I. I will pass this article for the moment because it presents some difficulties not yet wholly resolved which will require some detailed explanation.

Article III. The suggestions of the United States that the words "and other places of business" be inserted in the second line of this article after the word "shops"; that the word "and" before "shops" be in consequence omitted; that the words "and all premises thereto appertaining" in the fifth line of the article in the draft be placed immediately after the newly inserted words, were accepted. Article III will then read as stated on page 10 of the instruction under reference.

Article IV. The suggestion of the United States that there be inserted in the tenth line of the first paragraph of this article, after the word "Party", the words "whether resident or non-resident", was accepted.

Article V. In conformity with the changes desired by the Austrian Government, approved by the Department on page 11 of the instruction under reference, this article will read as follows:

[Here follows text of article V, same as in the signed treaty, printed on page 997.]

Article VI. As intimated on page 11 of my despatch No. 374 of December 18, 1923, I have always regarded the fate of this article as more or less turning on the final wording of Article V. Dr. Schüller feels none too happy about Article VI, but he was visibly affected by my assurance that Germany and Hungary had accepted it. I was able to show him this provision, chapter and verse, as printed in Treaty Series No. 725 containing the treaty between the United States and Germany. He agrees that the article as proposed by the United States may be incorporated in the instant treaty. This I regarded as most gratifying because it obviates any exchange of notes which the Government of the United States regards as distinctly prejudicial to its interests.

Recurring now to Article I. Dr. Schüller finally agreed to waive the request that paragraphs (A), (B) and (C) as set forth on page 2 of Department instruction under reference, be incorporated in Article I. I do not think that he attaches as much importance to provisions of this character as do some of his associates. (See, for example, my despatch No. 1030 of May 4, 1926, and Department's instruction No. 477 of June 18, in reply thereto,⁷⁷ in relation to the repatriation of one Oscar Rosenfeld. This is one of several cases which have been the subject of correspondence between the Foreign Office and this Legation in recent months, and is typical.) Dr. Schüller seemed to be more anxious to cut off possibility of the Austrian Government being confronted with a demand of costs incurred on behalf of indigent and mentally deranged Austrian nationals, and also for costs incurred for the burial of dead paupers. I gather that this has been a rather fruitful source of controversy between Austria and some of the Suc-

⁷⁷ Neither printed.

cession States. In some cases I am informed, understandings exist under which the states affected assume charge of their indigent and deranged nationals at the frontier. I felt at liberty to assure Dr. Schüller that the Austrian Government was not likely to be confronted with demands of this precise character from the Government of the United States; that it was contrary to its practice to insist upon the deportation of indigent and deranged nationals of other Powers found within its borders, unless such nationals came within the purview of the deportation provisions of the immigration law. It is possible that Dr. Schüller's agreement to drop the provisions (A), (B) and (C) may be challenged by some of his associates, but I apprehend no serious difficulty on this score.

The suggestion to insert in the fifth line of the second paragraph of Article I, after the word "taxes", the words "other or" so that the expression shall read "taxes other or higher", was accepted. The second paragraph of Article I will therefore read:

"The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals."

The suggestion that a final paragraph be added to Article I reading:

"Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or the right of either of the High Contracting Parties to enact such statutes."

was accepted.

I come now to deal with the first two amendments proposed by the Austrian Government to Article I as recited by the Department on page 2 of instruction No. 459 under reference, to wit.:

1. That the word "agricultural" be included in the first paragraph of Article I, so as to provide for the leasing of lands for agricultural purposes as well as for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes.

2. That provision be made in Article I, for the acquisition of land by the nationals of the High Contracting Parties on the same terms as nationals of the most favored nation.

Dr. Schüller showed a disposition to link these proposals up. I therefore consider them together. He quite understands that the owning and leasing of agricultural lands by Asiatics is regarded as a menace in some parts of the United States and that land laws have been framed by some states designed to cope with this situation. He anticipated this point. I did not have even to hint at it. I think he regards the number of Austrian nationals likely to seek to lease

land in the United States for agricultural purposes as negligible. This does not worry him. On the other hand, he does not understand why the United States cannot safely incorporate in the treaty a provision granting a most favored nation right to own real property and perhaps lease it for agricultural purposes. He seemed to proceed on the theory that as the United States had not conferred upon the nationals of any country by treaty the right to own real property and lease it for agricultural purposes, we could not be embarrassed. The recognition of favored nation treatment in this respect would therefore be an empty one but it would satisfy the Austrian Government. I did not feel at liberty at this stage, in view of the confidential nature of my instructions in this particular, to explain to him the embarrassment arising out of Article IX of the Treaty of 1853 with the Argentine Republic. Dr. Schüller seemed quite concerned about the privileges of Austrian nationals to acquire land in the United States and seemed anxious lest they should be put in some relatively unfavorable position. He also seemed to think that it was in the interest of the United States as well to have some concrete understanding in view of the state of the Austrian law which makes the right of nationals of foreign countries to own land in Austria conditional upon the reciprocal right of Austrian nationals to own land in the country of the foreign national concerned. I finally read to him the third clause of the three paragraphs I was authorized to propose, as set forth on page 6 of Department instruction 459, to wit.:

“As regards the acquisition, possession, and disposition of immovable property, except as regards the leasing of lands for specified purposes provided for in the foregoing paragraph, the nationals of each of the High Contracting Parties shall enjoy in the territory of the other, subject to reciprocity, the treatment generally accorded to foreigners by the laws of the place where the property is situated.”

The first impression was that this clause might prove troublesome. He was inclined to question the construction that might be placed upon the phrase “treatment generally accorded to foreigners”, and he thought the phrase “subject to reciprocity” might lead the Austrian courts to require reciprocity to be proved in each instance and that such a tedious legal formality might defeat the object sought to be attained. This, as just stated, was a matter of first impressions, and he wanted to think it over. He was inclined to think that the best way out would be to allow the first paragraph of Article I to stand as originally drafted, and for the Government of the United States to submit a memorandum to the Austrian Government embodying a general statement or résumé explaining that such matters come within the competence of the several states and reciting the general trend of the state laws so far as the Department is familiar with them. If such

a memorandum could be prepared in the State Department and embodied by me in a note, the Austrian Government would say in substance, by way of a reply (Dr. Schüller was giving me the idea and not the phraseology), that having gone in the situation it was satisfied that reciprocity to all intents and purposes existed, but that if such reciprocity should be hereafter wiped out, a new declaration in this respect could be made by either party. This solution contemplates, it will be perceived, an exchange of notes, but Schüller seemed to be of the opinion that it would obviate all difficulties and restrain the Austrian courts from taking the stand that reciprocity should be judicially proved in each instance when an American should seek to acquire land in Austria.

To sum up this branch of the discussion, (first), I feel reasonably certain that Dr. Schüller will not insist upon the insertion of the word "agricultural" in the first paragraph of Article I. He distinctly said so in the first instance, and only at a later stage did it occur to him that from his point of view there was no reason why most favored nation treatment should not be accorded Austrian nationals in the matter of leasing lands for agricultural purposes as well as for acquiring and owning land.

(Second), the matter of the acquisition of land can probably be regulated by an exchange of notes in the way above suggested. This is the only matter dealt with in the instruction under reference which I regard as really unsettled. Dr. Schüller said that there was a juridical question involved and he would want to consult some of his associates before speaking definitely upon this point. If this solution should prove acceptable, it would have the advantage of leaving the first paragraph of Article I as originally drafted, and would enable either party subsequently to make a new declaration with respect to reciprocal rights if it should become satisfied that discrimination was being practised. It is my impression that in the last analysis it will be for the Department to consider whether it prefers to meet the existing difficulty by an exchange of notes in the manner suggested, or by the incorporation of a provision corresponding to that found in the Treaty with Turkey, more particularly the provision hereinbefore quoted as set forth on page 6 of the instruction under reference.

Upon the occasion of my last interview with Dr. Schüller, I mentioned to him that I was assuming that the reciprocal application of the most favored nation treatment would continue until the treaty now being concluded had been negotiated and became effective. (See in this connection my telegram No. 45 of July 4, 1925, 2 p. m.)⁷⁸ He smilingly answered that I could rest easily on this score, that he very well remembered that he had taken this matter into his own hands a year ago without consulting anybody but that he assumed full re-

⁷⁸ *Foreign Relations*, 1925, vol. 1, p. 517.

sponsibility for it and that he was certain that there would be no disposition on the part of the Government to question the existing informal understanding. He did intimate, however, that he hoped we would be able to close the whole matter up by the end of the year. He will be away probably until the end of September and he knows that I am presently to go to the United States on leave. In this connection I note with satisfaction that, "The Department's views and instructions in regard to the succeeding Articles of the Treaty will be transmitted promptly in subsequent instructions." I have a feeling that I can make rapid progress in dealing directly with Schüller when the final instructions have been received, and that thereafter he will know how to secure the speedy acquiescence of his associates who must be consulted.

I have [etc.]

ALBERT H. WASHBURN

711.632/22

The Secretary of State to the Minister in Austria (Washburn)

No. 527

WASHINGTON, December 1, 1926.

SIR: The following instructions in regard to the provisions of the Treaty of Friendship, Commerce and Consular Rights, which you are engaged in negotiating with Austria, are in continuation of the Department's instruction No. 459 of May 12, 1926.

Article VII. With reference to the request of Austria that special advantages with respect to customs duties which Austria might grant to Hungary or Czechoslovakia pursuant to Article 222 of the Treaty of St. Germain should be exempted from the most favored nation assurances given in Article VII in the same way that the special treatment accorded by the United States to Cuba is exempted, the Department notes that the duration of arrangements contemplated by Article 222 was limited by the terms of the Article to five years from the coming into force of the Treaty of St. Germain. The Department understands that this period expired on July 16, 1925, five years after the date of the deposit of the first *proces-verbal* of ratification on July 16, 1920. It would appear therefore that such special advantages with respect to customs duties as Austria may have extended or may extend to Hungary or Czechoslovakia after July 16, 1925, are not within the scope of Article 222. You are instructed to bring the Department's understanding of this situation to the attention of the Austrian Foreign Office for the purpose of ascertaining whether Austria desires to abandon the request for such exemptions. The Department does not desire that you suggest that an exception in respect of advantages in regard to customs duties granted by Austria to Czechoslovakia or Hungary beyond the period contemplated by Article 222 of the Treaty of St. Germain would be accept-

able to the United States. If, however, it should develop in the course of the negotiations that Austria desires such an exception to be made, you are authorized to agree to it by adding at the end of the last paragraph of Article VII a provision somewhat as follows:

“or to any special advantages with respect to customs duties which may be granted by Austria to certain natural or manufactured products of Czechoslovakia and/or Hungary in agreements in which such products are specified, so long as such special advantages are not accorded to the products of any other country.”

Your attention is invited to paragraph five of Article VII of the Treaty with Germany which is as follows:

“All the articles which are or may be legally imported from foreign countries into ports of the United States, in United States vessels, may likewise be imported into those ports in German vessels, without being liable to any other or higher duties or charges whatsoever than if such articles were imported in United States vessels; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Germany, in German vessels, may likewise be imported into these ports in United States vessels without being liable to any other or higher duties or charges whatsoever than if such were imported from foreign countries in German vessels.”

No corresponding paragraph was included in the draft treaty submitted by the United States to non-maritime States such as Hungary and Austria. Such a paragraph was, however, agreed upon in the negotiations with Hungary and is included in the Treaty signed with Hungary as paragraph 6 of Article VII. (Treaty Series No. 748)

The same provision enlarged so as to relate to exportations as well as importations is included as paragraph 5 of Article VII in the treaties signed by the United States with Esthonia and Salvador as follows:

“All articles which are or may be legally imported from foreign countries into ports of the United States or are or may be legally exported therefrom in vessels of the United States may likewise be imported into those ports or exported therefrom in Esthonian (Salvadorean) vessels, without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Esthonia (Salvador) or are or may be legally exported therefrom in Esthonian (Salvadorean) vessels may likewise be imported into these ports or exported therefrom in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in Esthonian (Salvadorean) vessels.” (*Congressional Record*, March 26, 1926, pages 6094, 6095).

While this Government does not ask the Austrian Government to agree to insert the foregoing paragraph in the Treaty, it will be entirely agreeable to this Government to have it inserted in the form in which it is included in the treaties with Esthonia and Salvador, if the Austrian Government so desires. The provision in the Treaty with Germany is terminable at the expiration of one year from the date of coming into force of the Treaty on conditions stated in the Resolution by which the Senate gave its advice and consent to the ratification of that Treaty, which were accepted by Germany. The method of incorporating these conditions in the text of the Treaty is illustrated by Article XXIX of the Treaty with Esthonia. (Treaty Series No. 736.) The exact language which the Department will suggest for use in Article XXV of the Treaty with Austria in the event that the paragraph under consideration is included in Article VII will be furnished below when Article XXV is considered in these instructions.

The Department has under consideration whether it may be necessary or advisable to raise in the negotiations with Austria questions relating to the treatment of American Commerce in relation to quotas, contingents or licenses for the importation or exportation of articles the importation or exportation of which is restricted or prohibited, shipments in indirect trade, and certain questions of customs procedure.

The consideration which the Department is giving to these questions may lead to proposals of additional paragraphs to Article VII, or of amendments to certain of the paragraphs in the Article as originally drafted or to a proposal for the signing of a Protocol or Exchange of notes dealing with these matters at the same time that the Treaty is signed. The Department hopes to be able to instruct you definitely in regard to this matter at an early date. Pending the receipt of further instructions in regard to Article VII you may, in your discretion, either renew the negotiations in regard to that Article in respect of the two paragraphs which are hereinabove considered, reserving a right to make suggestions in regard to the above-mentioned matters after the receipt of further instructions, or, entirely suspend negotiations in regard to Article VII, in either event explaining to the Austrian negotiators in so far as you may deem it to be advisable the reason for your action.

Article VIII. This Government desires that the words "internal taxes," be inserted in the seventh line of Article VIII, after the word "to." This amendment also was made during the negotiations with Germany. The Article will then read:

"The nationals and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment as nationals and merchandise of the country with regard to internal taxes, transit duties, charges in respect to warehousing and other facilities and the amount of drawbacks and bounties."

The Article as herein amended is included in the treaties signed with Hungary, Salvador and Esthonia as well as in the Treaty with Germany.

Articles VIII and XIII. The Austrian experts seem to be under the impression that Article VIII is inconsistent with Article XIII in that the former provides for national treatment with respect to transit duties and the latter provides that persons and goods in transit shall not be subjected to any transit duties. This apparent inconsistency will doubtless disappear when it is explained to the Austrian experts that Article VIII relates to goods imported into the United States or Austria and Article XIII relates to goods or persons moving through the territory of either High Contracting Party to territory beyond.

This Government accepts the interpretation by the Austrian Government of the words "transit duty" as not comprising charges for visa certificates for persons in transit. The reference to transit duties upon merchandise which is the subject of monopolies, as tobacco, salt and explosives is not clear to the Department. If the Austrian Government would understand that the provisions of Articles VIII and XIII apply to articles the subject of monopoly in a different manner or to a less degree than to other articles of merchandise, this Government would desire to receive and consider the views of the Austrian Government in regard to the matter.

Article X. (Article XIII of the Treaty with Germany). At the request of the German negotiators the following sentence was added at the end of the first paragraph of this Article: "The foregoing stipulations do not apply to the organization of and participation in political associations". The sentence is also included in the treaties signed with Hungary (Article X) and Esthonia (Article XIII). It is not included in the treaty signed with Salvador. This Government does not propose it for inclusion in the Treaty with Austria. It desires, however, that you should bring the sentence and the fact that it is included in the treaties signed by the United States with Germany, Hungary and Esthonia to the attention of the Austrian negotiators and state to them that if Austria desires to have the sentence inserted at the end of the first paragraph of Article X of the Treaty under negotiation, this Government will be glad to agree to it.

Article XI. Apparently Austrian law forbids commercial travelers to take orders for merchandise from the consumer but allows them to sell their merchandise only to merchants, industrials and tradesmen. In view of the provisions of Austrian law on the subject, the Austrian negotiators suggested the omission of paragraph (c) of Article XI, which provides that a commercial traveler may sell his samples without obtaining a special license as an importer. They suggested also that paragraph (g) of Article XI, which pro-

vides that peddlers and other salesmen who vend directly to the consumer, shall not be considered as commercial travelers, but shall be subject to the license fees levied on business of the kind in which they are engaged, should be modified so as to provide merely that salesmen who vend directly to the consumer shall not be considered commercial travelers. You reported that under the Austrian Constitution the provincial governments may regulate and prohibit peddlers, and that as a matter of policy foreigners are not given concessions to peddle. For these reasons the Austrian negotiators desire to have the reference to peddlers omitted from paragraph (*g*) of the Article. They desire to avoid according by treaty favored nation treatment with respect to peddling, or to enter into any treaty obligation touching peddlers.

It is not believed that the explanations offered justify the omission of the provisions which the Austrian experts desire to have omitted. Paragraph (*e*) does not give commercial travelers the right to sell their samples to persons other than merchants, industrials or tradesmen. If commercial travelers representing American concerns are permitted to sell their samples to merchants, industrials or tradesmen, the privilege granted by paragraph (*e*) would be fulfilled. The Austrian law referred to in your despatch does not, therefore, justify the omission of paragraph (*e*).

You stated that it is not the policy of the provincial governments to permit foreigners to peddle, and that, therefore, Austrians cannot grant favored nation privileges with respect to peddling. If the nationals of other countries are not granted permission to peddle, a favored nation clause of a treaty between the United States and Austria could not be made the basis of a demand for that privilege on behalf of American citizens. There is not perceived in the explanation conveyed in your despatch a reason for making the modification in paragraph (*g*) proposed by the Austrian negotiators. However, as it is not believed that the business of peddling is of much consequence to American citizens, the Department is not indisposed to meet the viewpoint of the Austrian negotiators with respect to peddlers in the event that they adhere to that viewpoint after you have discussed the Department's views as set forth above with them.

It is suggested that if the view of the Austrians be adopted, with respect to peddlers, paragraph (*g*) be omitted and paragraph (*e*) be made to read as follows:

"A commercial traveler may sell his samples without obtaining a special license as an importer. Salesmen who vend directly to the consumer shall not be considered commercial travelers."

Such a provision would secure to American commercial travelers the right to dispose of their samples to a class of purchasers to whom

they are permitted to sell under Austrian law and would not in any way contemplate traffic forbidden by Austrian law. At the same time peddlers would be excluded from the scope of the Treaty and the policy which the provinces of Austria are said to follow with respect to peddling could be maintained.

If this suggestion for the consolidation of paragraph (e) and paragraph (g) be adopted, paragraph (h) and paragraph (i) will of course be re-numbered paragraph (g) and paragraph (h) respectively.

Article XIII. You stated that the Austrian experts have no objection to paragraph (b) of Article XII, provided it is understood that upon departure from the country the cancellation of the bond is to be effected in an Austrian port. The Austrian experts propose also with respect to Article XII, that paragraph (c) of that Article be amended by striking out everything after the semicolon in line 5, so that the paragraph will read as follows:

"It is understood that the traveler will not engage in the sale of other articles than those embraced by his line of business."

The Department does not understand that a requirement by Austria that the cancellation of the bond for the payment of customs duties on samples not re-exported should be effected at an Austrian port of departure would be in any way inconsistent with the provision in regard to the cancellation of such bonds contained in paragraph (b) of Article XII. You are authorized to accept the amendment proposed by Austria to paragraph (c) of Article XII.

This Government desires to have the words "or other competent authorities" inserted in the third line of the second paragraph of subdivision (b) of Article XII, after the word "officials". This also is an amendment arising out of the negotiations with Germany. As a consequence of the insertion of these words the word "customs" in the ninth line of this paragraph will be stricken out so that the second sentence of the paragraph will begin with the words "The said officials". The paragraph as amended will read:

(b) It is the citizenship of the firm that the commercial traveler represents, and not his own, that governs the issuance to him of a certificate of identification.

The High Contracting Parties agree to empower the local customs officials or other competent authorities to issue the said licenses upon surrender of the certificate of identification and authenticated list of samples, acting as deputies of the central office constituted for the issuance and regulation of licenses. The said officials shall immediately transmit the appropriate documentation to the central office, to which the licensee shall thereafter give due notice of his intention to ask for the renewal or transfer of his license, if these acts be allowable, or cancellation of his bond, upon his departure from the country. Due

notice in this connection will be regarded as the time required for the exchange of correspondence in the normal mail schedules, plus five business days for purposes of official verification and registration.

The paragraph as herein amended is included in the Treaty signed with Hungary (Article XII) as well as in the Treaty with Germany (Article XV). In the Treaty with Esthonia a most favored nation clause relating to commercial travelers (Article XIV) was agreed upon in lieu of articles corresponding to Articles XI and XII of the draft submitted to Austria. The United States and Salvador are parties to a special convention relating to traveling salesmen, signed in 1919 (3 *Treaties, Conventions, etc.*, 2826, Treaty Series No. 651, 41 Stat. 1725), and consequently no articles are included in regard to them in the Treaty of Friendship, Commerce and Consular Rights signed February 22, 1926.

No question has been raised in regard to Article XIII other than that considered above in connection with Article VIII and none has arisen in relation to Article XIV. The Department's views in regard to the questions that have been raised by Austria in regard to Articles XV and following, as well as in regard to such further questions as it may decide to ask to have considered in relation to Article VII and its views concerning the results of your negotiations on Articles I to VI inclusive, as reported in despatch No. 1106 of July 20, 1926, will be transmitted to you promptly in other instructions.

I am [etc.]

FRANK B. KELLOGG

711.632/22a

The Secretary of State to the Minister in Austria (Washburn)

No. 552

WASHINGTON, February 11, 1927.

SIR: The following instructions in regard to the provisions of the Treaty of Friendship, Commerce and Consular Rights, which you are engaged in negotiating with Austria are in continuation of the Department's instructions No. 459 of May 12, 1926 and No. 527 of December 1, 1926.

Article XV. Criminal and civil jurisdiction over consular officers

Three suggestions were made by Austria in regard to Article XV:

(1) That in the first paragraph the words "felonious crimes" be substituted for the word "crimes" in line 6 and the word "felon" be substituted for "criminal" in line 8.

(2) That the provisions of the third paragraph that consular officers shall be subject to the jurisdiction of the courts in the State which receives them in civil cases will be understood to mean that Austrian consular officers in the United States can be sued in the federal courts and not in the State courts. It is understood that in Austria all courts are federal courts.

(3) That when in attendance at a trial as a witness in a criminal case, a consular officer may be required to testify only as to facts and shall not be required to testify as an expert. The Austrians proposed the following as a substitute for the first sentence of the second paragraph of Article XV:

“In cases of felonies the attendance at the trial by a consular officer as a witness as to fact may be demanded by the prosecution or defense.”

With reference to the first suggestion you state that the Austrian experts understand that the term, “offenses locally designated as crimes” in the United States, which was used in the draft submitted to the Austrian Government by you, is sufficiently broad to include misdemeanors punishable by imprisonment, whereas the German term corresponding to the word “crimes”, which would be used in the Austrian text, has a narrower meaning and includes only serious offenses such as are regarded as felonies in the United States. The Austrian negotiators fear that the provision as originally drafted would operate unequally on American consular officers in Austria and Austrian consular officers in the United States to the disadvantage of the latter in that by reason of the breadth of meaning of the word “crimes”, Austrian consular officers in the United States would be subject to prosecution not only for offenses of the gravity of a felony, but also for misdemeanors, while American consular officers in Austria, by reason of the narrower meaning of the German term would be subject to prosecution for serious offenses only and not for misdemeanors.

The same question came up in the negotiation of the treaty with Germany, and the American draft of that treaty which was in the same language as the original draft submitted to Austria, was modified before signing so as to subject consular officers to prosecution for “offenses locally designated as crimes other than misdemeanors”. The first paragraph of Article XVIII of the Treaty with Germany, which corresponds to Article XV of the draft under negotiation with Austria, reads as follows:

“Consular officers, nationals of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.”

The paragraph in this form is included in the Treaties of the United States with Hungary (Article XV) and Estonia (Article XVII) as well as in the Treaty with Germany (Article XVIII).

You are instructed to propose to the Austrian Foreign Office that the above quoted paragraph be substituted for the first paragraph of

Article XV of the draft. In the interest of uniformity in the treaties of the United States, this Government would be glad if Austria would accept it in lieu of the suggestion made by that Government. It is believed that it meets the criticisms of the original paragraph made by the Austrian negotiators.

With respect to the second suggestion of the Austrian experts relating to the courts in the United States having jurisdiction over consular officers, Article III, Section 2, Paragraph 2 of the Constitution of the United States, to which reference was made in your despatch No. 374 of December 18, 1923, is of course applicable. The Department confirms your explanation to the Austrian experts that the Supreme Court of the United States has original but not exclusive jurisdiction over consular officers and that a consular officer cannot be impleaded in a State court. Section 256 of the Judicial Code which became effective January 1, 1912, (36 Stat. L. 1160) and is still in force reads as follows:

“The jurisdiction vested in the courts of the United States in the cases and proceedings hereinafter mentioned, shall be exclusive of the courts of the several states: . . .

Eighth. Of all suits and proceedings against ambassadors, or other public ministers, or their domestics, or domestic servants, or against consuls or vice consuls.”

Your assurance to the Austrian negotiator that the proposed treaty provision will effect no change in existing judicial procedure as respects courts in which Austrian consular officers in the United States may be impleaded was entirely correct.

With respect to the suggestion made by the Austrian negotiators that in criminal cases consular officers may be required to testify only as to matters of fact and not as experts, it may be stated that this Government does not perceive any particular merit in this suggestion. There would be little occasion for a consular officer to testify in criminal proceedings as an expert witness, and since the second paragraph of Article XV of the draft, to which this suggestion relates provides that the demand for the attendance of a consular officer at trials shall be made with all possible regard for the consular dignity and the duties of the office, it would seem that he is adequately safeguarded.

This Government considers that the right to demand the attendance of a consular officer as a witness in criminal cases should relate to cases of misdemeanors as well as of felonies. It has no desire to have its consular officers in Austria exempt from attendance as witnesses in cases of misdemeanors when the ends of justice would be advanced by their attendance; and under the treaties concluded by this country with Germany, Hungary, and Estonia consuls do not enjoy such an exemption. This Government, therefore, does not agree to the substitution of the words “In cases of felonies” for “In criminal cases” at the beginning of the second paragraph

of Article XV. It would be agreeable to this Government to consider a suggestion as to the German text which would correspond exactly to the expression "In criminal cases", the latter being understood to include misdemeanors as well as felonies. The provision as contained in the original draft submitted to Austria was adopted in the treaties of the United States with Germany, (Article XVIII), Hungary (Article XV), and Estonia (Article XVII). In view of the foregoing explanation it is hoped that the Austrian Government will find the paragraph in its original form acceptable.

Article XVI. Exemptions of consular officers and government property from taxation

The first paragraph of this Article provides that consular officers including employees in a consulate nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from taxation with certain exceptions. The provision of the Article establishing exceptions from the exemption, namely the taxation to which a consular officer is subject, reads as follows:

" . . . except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from property of any kind situated or belonging within the territories of the State within which they exercise their functions."

The Austrian experts proposed that this provision be amended to read as follows:

" . . . except taxes levied on account of income derived from any property situated within the territories of the State within which they exercise their functions, according to the laws of that State, upon all foreigners, who have no domicile or residence within that State."

It is noted (1) that taxes levied on account of the possession or ownership of immovable property situated in the country of the official residence of the consular officer, which constituted one of the exceptions to the exemptions from taxation as contained in the American draft, and which consular officers therefore, would be liable to pay thereunder, are omitted from the exceptions as stated in the Austrian counter proposal and (2) that in the Austrian draft the taxability of the income of a consular officer from property is made to depend on a test of domicile or residence applied to all foreigners instead of merely on the situs of the property from which the income is derived as was provided in the American draft.

The effect of the omission of the exception in respect of immovable property would be to accord consular officers exemption from the pay-

ment of taxes levied on account of the possession or ownership of such property situated in the country of their official residence, an exemption which this Government does not believe there is sufficient reason for according. From the point of view of this Government it is undesirable to introduce into the treaty in the matter of exemption of income from taxation, the test of domicile or residence involved in the provision of the Austrian draft. Confusion might arise in the application of such a provision in the United States because under the American doctrine consular officers of a foreign country in the United States are considered to have their residence here, although they may retain their domicile in another country.

As indicated above, among the exceptions to the exemption from taxation included in the American draft was income derived from property of any kind situated or belonging within the territories of the State in which the consular officer exercises his functions. The Austrian experts referred to this provision as being too general and vague.

This Government is prepared to admit that the expression "belonging within" as used to describe property, may be somewhat vague. It is not believed, however, that the use of the expression will give rise to any difficulties of interpretation in the United States and this Government would be glad if Austria would accept it. If, however, the Austrian negotiators insist on a more precise expression, you are authorized to suggest that the words "from sources within" be substituted for the words "from property of any kind situated or belonging within". For the reasons already stated, this Government does not desire to accept the counter-draft of the first paragraph of Article XVI submitted by Austria. The provision in regard to the taxation of consuls in the language of the draft which was submitted to Austria was accepted in the treaties concluded by the United States with Germany (Article XIX), Hungary (Article XVI) and Estonia (Article XVIII). This Government would be glad if Austria would accept this paragraph of the original draft without change, or at least without other modification than the substitution of the words "from sources within" in place of "from property of any kind situated or belonging within".

The second paragraph of Article XVI of the draft submitted to Austria provides that lands and buildings situated in the territories of either Party of which the other Party is the legal or equitable owner and which are used exclusively for governmental purposes by the owner shall be exempt from taxation. The Austrian negotiators desired to have the word "governmental" omitted and the term "diplomatic or consular" substituted therefor. They fear that the term "governmental" is too broad in that the Government might use a building for purely commercial or industrial purposes and yet be entitled to exemp-

tion from taxation thereon because those purposes might be regarded as governmental. While this Government does not understand the word "governmental" as used in the second paragraph of Article XVI of the draft as embracing the meaning suggested by the Austrian negotiators, it is willing to accept the suggestion that the words "diplomatic or consular" be substituted therefor.

Article XVI as rewritten pursuant to the foregoing discussion is as follows:

"Consular officers, including employees in a consulate, nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from sources within the territories of the State within which they exercise their functions. All consular officers and employees, nationals of the State appointing them shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

"Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for diplomatic or consular purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than assessments levied for services or local public improvements by which the premises are benefited."

Article XVII. Privileges of consular officers

The Austrian negotiators desire that there be included in this Article a provision protecting consular titles, arms, and flags against illegal use, stating that foreign consular officers in the United States have frequently been obliged to apply to local authorities for assistance in preventing the unauthorized use of consular insignia and that in some of the States there are no laws under which assistance could be obtained.

This same suggestion was made by the German negotiators in the course of the negotiation of the Treaty with Germany and the Department deemed it inadvisable to accede to the wishes of the German Government because of the inadequacy of existing legislative authority of the Federal Government to meet the obligation which would be undertaken by such a provision. The Department appears not to be in possession of information to confirm the statement of the Austrian negotiators that the unauthorized use of foreign consular emblems in the United States has been frequent. In the absence of information to that effect the Department is not in a position to make the recommendations necessary to obtain remedial legislation in regard to the matter.

Article XVII of the American draft of the Treaty submitted to Austria conforms precisely to Article XX of the Treaty of the United States with Germany, Article XVII of the Treaty with Hungary, and Article XIX of the Treaty with Estonia. The Department desires that you endeavor to have Article XVII accepted by Austria without change.

Article XX. Competency of consular officer to take charge of property of deceased national, qualify as administrator, etc.

The counter-draft of Article XX submitted by Austria as quoted in your despatch No. 419 of March 4, 1924,⁷⁹ presents four points of difference from the draft which you submitted to the Austrian Government.

(1) A paragraph is inserted between the first and second paragraphs requiring local authorities of one country to inform the nearest consular officer of the other of the mental incompetency or insanity of nationals of his country when mental incompetency or insanity is declared.

(2) The provision "so far as the laws of the country permit" in the second paragraph of the American draft is omitted from the Austrian counter-draft.

(3) The final sentence of the second paragraph of the American draft is revised so as to confer on consular officers the paramount and exclusive right to be appointed administrator in case of the death of a national without will or testament, unless the laws of the place where the estate is administered provide for administration by a public officer; and the sentence as revised is made a separate paragraph.

(4) Two new paragraphs are added to the Article, the first of which would require any tribunal or other agency of either country before which an estate is pending in which absent, unknown, incompetent or minor nationals of the other country are among the heirs, next of kin, legatees or devisees, to inform the nearest consular officer of that country of such fact and the second of which would give to such consular officer the right to represent such nationals of his country personally or by delegate, in all proceedings relating to the estate.

The German negotiators of the Treaty of the United States with that country raised the same question that the Austrians have raised in regard to notifying consular officers of mental incompetency and insanity of their countrymen. The Department took the position with the German negotiators that this Government would not be warranted in imposing the additional obligation on the local authorities. The request was not pressed by Germany and no such provision was included in the Treaty. Compliance with the requirements of the provision proposed by Austria would necessarily rest with the local State authorities in the United States and it would be difficult for the Federal Government to see that such an obligation,

⁷⁹ Not printed.

if placed upon them by Treaty, was carried out. Such a provision is not contained in any treaty to which the United States is a party, and this Government deems it inadvisable to enter into more extensive commitments with foreign governments than have already been undertaken entailing duties on State authorities. For these reasons the Department does not desire to accept the Austrian proposal.

With reference to the omission of the clause "so far as the laws of the country permit" from the second paragraph of Article XX of the Austrian draft, the Department would be glad to have you bring to the attention of the Austrian negotiators that in the United States the matter of administration on the estates of deceased persons is subject to control by the State Legislatures, and that a treaty provision qualifying consular officers of a foreign country to take possession of property without regard to the provisions of State laws would be an encroachment upon the recognized jurisdiction of the State, which it is deemed inadvisable to make.

The provision of the last sentence of the second paragraph of Article XX of the American draft relating to the right of consular officers to be appointed as administrators of the estates of their deceased intestate nationals, as modified and made a separate paragraph in the Austrian counter-draft, would confer on consular officers a paramount and exclusive right to be appointed administrators in such cases unless the laws of the place where the estate is administered provide for administration by a public officer. If the paragraph proposed by Austria were adopted, the courts in the United States would be deprived of much of the discretion which they now have and exercise in the appointment of administrators under the laws of the several States, and which would still be permissible to them under the provisions in the American draft. The establishment of such a situation would disturb the procedure in many of the States, where, as has just been mentioned, the appointment of administrators is largely in the discretion of the local courts and where it may also be stated the laws authorize the appointment of such persons as the next of kin and creditors. For these reasons the Department considers it not to be desirable for this Government to accept the proposed modification. The second paragraph of Article XX of the American draft of the Treaty submitted to Austria is identical with the corresponding paragraph of Article XXIV of the Treaty of the United States with Germany, Article XX of the Treaty with Hungary, and Article XXIII of the Treaty with Estonia. In the interest of uniformity in the treaties of the United States and to avoid interference with State laws and judicial procedure this Government is unwilling to agree to the two modifications to paragraph 2 of Article XX proposed by Austria. The Depart-

ment desires that you endeavor to have the paragraph as in the American draft accepted.

With reference to the provisions of the first of the two paragraphs which Austria proposed to add to Article XX the same objections apply on the part of this Government as apply to the proposal for the giving of notice in regard to cases of mental incompetency or insanity, as stated above. With reference to the provision of the final paragraph of the Austrian counter-draft of the Article, the same objections apply as apply to the proposed omission of the provision "so far as the laws of the country permit" from the second paragraph.

Under the second paragraph of the American draft of Article XX Austrian consular officers in the United States will be qualified insofar as it is permitted under State laws and pending the appointment of an administrator to take charge of the property left by intestate nationals of their country for its preservation and protection. They will also have the right to be appointed as administrators of such estates within the discretion of the tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit,—namely, the State laws. It would seem that estates affected by these provisions would include most of those in which absent, unknown, incompetent or minor nationals of Austria are among the heirs, next of kin, legatees or devisees. This Government would avoid entering into any treaty stipulation which would enlarge the scope of these provisions so as to qualify foreign consular officers irrespective of State laws to act as representative of the distributees of estates in the United States or would restrict the freedom of the States in respect of recognizing other persons than consular officers in such capacities.

The Department desires that you endeavor to have Article XX of the American draft accepted by Austria without modification. It is identical with the corresponding Articles of the Treaties of the United States with Germany (Article XXIV), Hungary (Article XX) and Estonia (Article XXIII), and of drafts which this Government has submitted to other Governments. In the interest of uniformity in the treaties of the United States and to avoid intruding any further than is warranted by precedent into the realm of affairs over which the States exercise jurisdiction, the Department considers it impracticable to accept the modifications of Article XX proposed by Austria.

Article XXI. Competency of consular officer to receive funds, etc.

Article XXI of the American draft provides that a consular officer, may, in behalf of his non-resident countrymen, receipt for their

distributive shares of estates in process of probate, or of amounts accruing under the provisions of Workmen's Compensation Laws or other like statutes, provided he remit any funds so received through the appropriate agencies of his Government to the proper distributees, and provided further that he furnish to the authority or agency making distribution through him, evidence of remission of such funds. The Austrian negotiators suggested that the proviso requiring the consular officer to furnish evidence of remission be omitted, and that there be substituted therefor a provision to the effect that a receipt given by a consular officer under his official seal and signature shall be accepted as a release in the country where he is accredited. They also suggested that the words "collect and" be inserted in line 4 between the words "countrymen" and "receipt".

The Department recognizes that the principal suggestion is not without merit. It can understand that the Austrian Government might consider it to be unnecessary that the agency distributing proceeds of an estate in the United States, and paying a portion thereof to an Austrian consular officer as representative of his non-resident countrymen, should follow funds beyond the hands of the consular officer, on the principle that the matter of the funds reaching the proper distributee is one between such officer and his Government. This Government assumes that it would be the official duty of the foreign consular officer to make proper disposition of funds received by him for the purposes mentioned in the Article, and that it would be the function of his Government to see that he performed his duty in this regard.

The Department considers that the question of retaining or omitting the proviso is not of great importance. The article with the proviso is identical with Article XXV of the Treaty of the United States with Germany, Article XXI of the Treaty with Hungary, and Article XXIV of the Treaty with Estonia. In order to avoid a departure from these treaties the Department desires that you endeavor to prevail upon the Austrian authorities to accept Article XXI of the American draft without modification. You may inform them that while this Government appreciates their viewpoint with respect to the proviso, it would be glad if Austria would accept the article without change in order that it may be uniform with the corresponding article of the Treaties which are in force between the United States and Germany, Hungary, and Estonia, respectively. You are authorized, however, to consent to the omission of the proviso, if the Austrian authorities attach great importance to their suggestion. This Government does not desire, however, to substitute therefor the provision that a receipt of the consular officer under his official seal and signature shall be accepted as a release. The Department has no objection to the acceptance of the words "collect and" after "countrymen" in the fourth line of the draft.

Article XXII. Exemptions from duty of importations of consular supplies and belongings of consuls

The Department has considered the proposals made by the Austrian negotiators for the modification of the first paragraph of Article XXII of the draft and the counter-proposal made by you, as follows, which it is understood is acceptable to the Austrian negotiators:

“Each of the High Contracting Parties agrees to permit the entry free of all duty and without examination of any kind, of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their personal or household effects actually in use which accompany such consular officers, their families or suites, or which arrive shortly thereafter, provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.”

The Department understands that the effect of the proposed modification would be to reduce the exemption from import duties accorded to consular officers below the proposals of the American draft, in that under the provisions of the American draft consular officers of each country in the other would be entitled to free entry for their families and suites of their baggage and all other personal property, either accompanying them to their posts or imported at any time during the officer's incumbency, while under the provision as revised they would be entitled to free entry only of their personal or household effects accompanying them, their families or suites, or arriving shortly thereafter.

The draft of the treaty sent to you bore a notation opposite Article XXII that under the customs regulations of the United States foreign consuls, their families and servants are granted on a basis of reciprocity free entry of all baggage and household goods which accompany them to the United States, or which arrive shortly thereafter, that they are required to pay regular duty on subsequent importations of personal property, and that official supplies for consular offices are admitted free of duty. As the first paragraph of Article XXII as modified by you and as acceptable to the Austrian negotiators is in substantial conformity to the provisions of the customs regulations of the United States, this Government has no serious objection to accepting the modified draft. It was believed, however, that the broader exceptions provided in the original draft would be of advantage to consular officers of foreign countries in the United States as well as of American consular officers in foreign countries, and that as the resulting loss of revenue to Governments would be small, foreign Governments would willingly accept the

provision. It was accepted by Germany (Article XXVII), and Hungary (Article XXII).

If the provision as revised by you is adopted in the Treaty with Austria, consular officers of Austria in the United States will be required to pay duties on the importation of all personal property not accompanying them or arriving in the United States shortly after their arrival, whereas consular officers of Germany and Hungary, their families and suites will receive free of duty all personal property imported during the incumbency of the officer. While this Government prefers that the first paragraph of Article XXII of the original draft be accepted by Austria without change, yet if, after further consideration in the light of the foregoing statement, the paragraph as originally drawn is unacceptable to Austria, this Government will accept the modified form drawn by you and quoted above from your despatch No. 374 of December 18, 1923. The Department understands that the second paragraph of Article XXII of the original draft is acceptable to Austria whether the first paragraph be modified or not.

Article XXIII. Definition of territories and nationals

This Government desires to withdraw the second paragraph of Article XXIII of its draft. It would appear that cases might arise in which each party to the Treaty would deem that the same person owed permanent allegiance to it. The provision in the second paragraph would seem to contribute nothing to the solution of such a question when it might arise and would be unnecessary in other circumstances. This paragraph does not appear in the treaties signed with Germany, Hungary or Estonia. .

*Article XXIV. Treaty of August 24, 1921, establishing friendly relations*⁸⁰

You are authorized to suggest that the words "or to Austria or its nationals" be inserted after "nationals" at the end of the fifth line of Article XXIV of the original draft. The Article then will read as follows:

"Nothing in the present Treaty shall be construed to limit or restrict in any way the rights, privileges and advantages accorded to the United States or its nationals or to Austria or its nationals, by the Treaty between the United States and Austria establishing friendly relations, concluded on August 24, 1921."

A corresponding provision is contained in the Treaty with Germany (Article XXX) and in the Treaty with Hungary (Article XXIV).

⁸⁰ *Foreign Relations*, 1921, vol. I, p. 274.

Article XXV. Duration and termination of treaty

Article XXV deals with the duration of the treaty and modes of terminating it. It is deemed wise to fix the initial period of operation at ten years in regard to all matters with respect to which the Contracting Parties have a permanent policy and to require one year's notice of termination.

The reservation made by the Senate when giving its advice and consent to the ratification of the Treaty with Germany that the fifth paragraph of Article VII and Articles IX and XI of that Treaty should be terminable at the end of one year was referred to in instruction No. 527 of December 1, 1926. It is necessary that provisions in treaties which this Government may conclude with other countries corresponding to that paragraph and those Articles of the Treaty with Germany shall likewise be made terminable at the end of one year. No provisions similar to the fifth paragraph of Article VII or Articles IX and XI of the Treaty with Germany were contained in the draft originally submitted to Austria. The new paragraph of Article VII suggested on page 3 of instruction No. 527 is, as pointed out in that instruction, the same as the fifth paragraph of Article VII of the Treaty with Germany and the sixth paragraph of Article VII of the treaty with Hungary, enlarged so as to relate to exportations as well as importations. In its enlarged form it is contained in the Treaties with Estonia and Salvador as the fifth paragraph of Article VII. In all of these treaties the provision is terminable at the end of one year.

If the paragraph quoted on page 3 of instruction No. 527 be accepted by Austria and included in Article VII, it should be made terminable at the end of one year.

Article XXV of the draft under negotiation should then be replaced by the following:

"ARTICLE XXV

"Except as provided in the third paragraph of this Article the present Treaty shall remain in full force for the term of ten years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

"If within one year before the expiration of the aforesaid period of ten years neither High Contracting Party notifies to the other an intention of modifying by change or omission, any of the provisions of any of the articles in this Treaty or of terminating it upon the expiration of the aforesaid period, the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

"The —* paragraph of Article VII shall remain in force for twelve months from the date of exchange of ratifications, and if not then terminated on ninety days' previous notice shall remain in force until either of the High Contracting Parties shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment, and on such lapse each High Contracting Party shall enjoy all the rights which it would have possessed had such paragraphs or articles not been embraced in the Treaty."

You will observe that the second paragraph of this Article is the same as the second paragraph of Article XXV of the original draft and that the new Article differs from the Article in the original draft by the addition of the words "Except as provided in the third paragraph of this Article" at the beginning of the first paragraph and by the addition of the third paragraph. The third paragraph makes provision for the duration and termination of the proposed new paragraph of Article VII on the conditions which, pursuant to the reservation made by the Senate of the United States, apply to the fifth paragraph of Article VII of the Treaty with Germany, and which also have been made to apply to the corresponding provision in the Treaties with Hungary, Estonia and Salvador.

If further questions arising in the course of the negotiations are not too numerous or complicated the Department will with a view to expediting the completion of the negotiations be glad to have you report by telegram in regard to such points as you may desire further instructions.

I am [etc.]

FRANK B. KELLOGG

711.632/21

The Acting Secretary of State to the Minister in Austria (Washburn)

No. 556

WASHINGTON, February 24, 1927.

SIR: The Department has given consideration to your report, made in your despatch No. 1106 of July 20, 1926, concerning your negotiations with Sektionschef Doctor Richard Schüller in relation to the Preamble and Articles I, III, IV, V, and VI of the Treaty of Friendship, Commerce and Consular Rights under negotiation between the United States and Austria. The Department has noted the tentative character of the results of your discussions with Doctor Schüller but observes that in your opinion the agreements reached with him will probably not be overturned by his colleagues.

Preamble. The Department notes that this Government's proposal that the title of the Treaty as stated in the Preamble be "Treaty of Friendship, Commerce and Consular Rights" was accepted.

*Note: Insert fifth or sixth according to the position given the paragraph if it is included in Article VII. [Footnote in the original.]

Article I. Right to enter, engage in business, lease land, etc. The Department notes that Doctor Schüller agreed to waive his request that there be incorporated in Article I, paragraphs (A), (B), and (C), which were brought to the Department's attention on page 3 of your despatch No. 374 of December 18, 1923, and were restated on page two of the Department's instruction No. 459 of May 12, 1926. Your statement to Dr. Schüller that it is not likely that the Austrian Government will be confronted with demands on the part of the United States for repayment of costs incurred on behalf of indigent and mentally deranged Austrian nationals in the United States and for costs incurred for the burial of dead paupers is approved. Your further statement to him that it is contrary to the practice of the United States to insist upon the deportation of indigent and deranged nationals of other Powers found within its borders unless such nationals come within the purview of the deportation provisions of the immigration law is likewise approved.

The Department notes that this Government's proposal that there be inserted in the fifth line of the second paragraph of Article I after the word "taxes", the words "other or", so that the expression shall read "taxes other or higher" was accepted. It is also noted that this Government's proposal that a final paragraph be added to Article I providing that nothing in the Treaty shall be construed to affect existing immigration statutes or the right of either Party to enact such statutes, was accepted by the Austrian negotiator. The second paragraph and the final paragraph of Article I as quoted on page 5 of despatch No. 1106 of July 20, 1926, are approved by the Department.

As appears from despatch No. 1106 the points in Article I still unsettled in the negotiations are the suggestions of the Austrian Government:

(1) That the word "agricultural" be included in the first paragraph of Article I, so as to provide for the leasing of lands for agricultural as well as for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes;

(2) That provision be made in Article I for the acquisition of land by the nationals of the High Contracting Parties on the same terms as nationals of the most favored nation.

You state that Doctor Schüller at first waived the first suggestion, and that though later in the discussions he considered the two suggestions together with a view to the possibility of agreeing on most-favored nation treatment in regard to the leasing of land for agricultural purposes as well as in regard to the acquisition and ownership of land, you feel reasonably certain that he will not insist upon the insertion of the word "agricultural" in the first paragraph of the Article. Doctor Schüller suggested that if this Government would submit a memorandum to the Austrian Government embody-

ing a general statement explaining that in the United States the regulation of the ownership of land comes within the competence of the several States and reciting the general trend of the State laws so far as the Department is familiar with them, the Austrian Government might say in substance that reciprocity existed; and that this would obtain for nationals of the United States the right to acquire and hold land in Austria. It was suggested that this arrangement might be made by an exchange of notes signed simultaneously with the Treaty. The Department understands that this suggestion by Doctor Schüller was tentative, requiring the approval of his colleagues, and that if it is accepted by both Governments the first paragraph of Article I as in this Government's original draft will be accepted.

The Department recognizes as intimated by Doctor Schüller that it might be of advantage to the nationals of the United States to have the right to own land in Austria. It does not believe, however, that the matter is of sufficient importance to nationals of the United States in Austria or other foreign countries, to warrant this Government to conclude treaty provisions which would interfere with the independence of the several States in the regulation of the matter.

The Department desires that you present the following considerations to the Austrian Foreign Office as a basis for a possible finding that reciprocity exists. Under the Federal System of the United States the control of real property is a function of the States; and barring the granting of rights in respect of the leasing of land such as are included in the first paragraph of Article I of the draft under negotiation and of rights in respect of inheritances and devises such as are provided in the first paragraph of Article IV, it is the policy of the National Government to refrain from interfering with that control. This Government's policy in that respect extends to the omission from treaties of the most-favored-nation clause as it relates to the right to acquire or hold real property. It is believed that it would be unwise for the United States to deviate from its established course.

The States, generally speaking, have adopted a very liberal policy with respect to the right of aliens to hold land. According to the information at the disposal of the Department, the laws of twenty-two States permit aliens of all nationalities, resident and non-resident, to own unlimited amounts of land, the laws of five States permit aliens eligible to citizenship, resident or non-resident, to own unlimited amounts of land, and the laws of one State permit all aliens, resident or non-resident, with the exception of non-resident Chinese, to own unlimited amounts of land. Five States permit resident aliens but not non-resident aliens, to own unlimited amounts of land, and

four States permit resident and non-resident aliens to own limited amounts of land ranging from 90,000 square feet to 5,000 acres. One State permits aliens to own land on the basis of reciprocity. In no State do the laws have the effect of placing Austrian nationals in a position relatively less favorable than the nationals of any other country. The latest census of the United States (1920) reveals the fact that approximately 88 per cent of the aliens of Austrian birth resident in the United States at that time were in States under whose laws aliens including Austrians may own land. In view of these facts it would seem that the Austrian Government would be warranted in saying that reciprocity in respect of the ownership of lands to all intents and purposes exists in the United States so as to enable nationals of the United States to enjoy the right to acquire and hold lands in Austria.

A tabulation giving a list of the States in each of the classifications mentioned above is enclosed.⁸¹ You are authorized to give a copy of it to the Austrian Foreign Office and to agree to an exchange of notes as supplementary to the treaty under negotiation establishing the right of nationals of the United States to own land in Austria. Drafts of notes are enclosed.⁸² If material changes are made therein the notes should be submitted to the Department for approval before they are agreed upon. It is believed that they should not contain the names of the several States as given in the enclosed tabulation, the summary of the classifications as set forth in this instruction, or the percentage figure given above of Austrians residing in States in which aliens may own land.

Should an agreement not be reached on the exchange of notes and the Austrian Government should not accept the first paragraph of Article I of the original draft without an accompanying exchange of notes, you are instructed again to submit the proposal of this Government set out on pages five and six of Instruction No. 459 of May 12, 1926, and quoted in part by you on page seven of despatch No. 1106. The proposal was for the substitution of the following three paragraphs for the present first paragraph of Article I:

[Here follow the three paragraphs quoted on page 927.]

Article II. Right of recovery in case of injury or death. As no comments in regard to Article II have been made in any of the despatches received from the Legation, the Department infers that the Article contained in this Government's original draft is acceptable to the Austrian negotiators.

Article III. Respect for dwellings and other premises. The Department notes that its proposals that the words "and other places

⁸¹ Not printed.

⁸² Not printed. The proposal for an exchange of notes was abandoned; see discussion of art. I in despatch No. 1468, July 11, 1927, from the Minister in Austria, p. 974.

of business" be inserted in the second line of Article III after the word "shops"; that the word "and" before "shops" be in consequence omitted; and that the words "and all premises thereto appertaining" in the fifth line be placed immediately after the newly inserted words, were accepted. Article III will then read as stated on page 10 of instruction No. 459 of May 12, 1926.

Article IV. Rights of succession to real and personal property. The Department notes that this Government's proposal that there be inserted in the tenth line of the first paragraph of Article IV, after the word "Party", the words "whether resident or non-resident", was accepted.

Article V. Freedom of worship. The Department notes and approves the text of Article V as quoted on pages 3 and 4 of despatch No. 1106 of July 20, 1926.

Article VI. Compulsory military service. The Department notes that Doctor Schüller agreed to accept Article VI as contained in the draft. You will call to his attention the fact that a similar Article is contained in the Treaty of Friendship, Commerce and Consular Rights between the United States and Hungary, signed June 24, 1925, (Treaty Series No. 748), as well as in the Treaty of December 8, 1923 between the United States and Germany which you already have brought to his attention.

I am [etc.]

JOSEPH C. GREW

711.632/22b

The Secretary of State to the Minister in Austria (Washburn)

No. 566

WASHINGTON, April 2, 1927.

SIR: The following instructions in regard to Article VII of the Treaty of Friendship, Commerce and Consular Rights which you are engaged in negotiating with Austria are supplemental to the Department's instructions No. 527 of December 1, 1926, and No. 552 of February 11, 1927.

Article VII. Importations, exportations, most favored nation clause, etc. The Department desires that you propose to the Austrian Government certain further additions to the text of Article VII relating particularly to indirect shipments, to quotas and licenses for the importation or exportation of restricted goods and to customs formalities. As the United States does not require certificates of origin to accompany imports from foreign countries and maintains no prohibitions except for sanitary or other special reasons, there is no such condition facing Austrian commerce in this country as faces American commerce in a number of European countries.

Second paragraph. In view of the difficulties that have been encountered by American merchandise in obtaining most favored nation

treatment in countries which import largely from warehouses in third countries, this Government desires that the Treaty specifically stipulate that American products shall enjoy equality of treatment from whatever place arriving. It has been decided, therefore, to endeavor to have a provision designed to protect indirect trade inserted in the treaties of friendship, commerce and consular rights which the United States shall hereafter conclude. The following paragraph which it is proposed to substitute for the second paragraph of Article VII of the draft of the Treaty with Austria will also be proposed in drafts submitted to other countries:

[Here follows the second paragraph of draft article VII quoted *infra*.]

Fourth paragraph. As you are aware a number of countries, particularly countries in Central Europe, have established systems of licenses and of rations or quotas for imports and exports. In some of these countries it has developed that in practice American commerce has been discriminated against. In this situation the Department deems it wise to make express provision in Article VII of the treaty in regard to the treatment which shall be accorded to American commerce in respect of licenses, quotas and contingents. In thus attempting to assure for American commerce treatment which shall be not less favorable than that accorded to other nations in the matter of licenses and of rations or quotas, this Government is not proposing to insert in its Treaty with Austria a provision which will be unique. The same provision will be proposed in treaties of friendship, commerce and consular rights which the United States will undertake to negotiate with other countries.

The Department understands that Austria is a party to the International Convention Relating to the Simplification of Customs Formalities signed at Geneva November 3, 1923,⁸³ which contains stipulations in regard to prohibitions, restrictions and licenses, and that the matter of prohibitions and licenses is also dealt with in Article 9 of the Anglo-Austrian Treaty of May 22, 1924.⁸⁴ Under the most favored nation provisions of Article VII of the draft under negotiation as interpreted by the Department, the obligations of Austria under the two above mentioned agreements would be extended to the United States. Accordingly, it is not desired by this Government to incorporate *in extenso* in the Treaty of the United States with Austria the stipulations of the convention and treaty referred to.

This Government desires, however, that you propose to the Austrian Government that the following paragraph, which is an adaptation and amplification of a provision contained in the second paragraph of exchanges of notes signed by the United States with several

⁸³ League of Nations Treaty Series, vol. xxx, p. 371.

⁸⁴ *Ibid*, vol. xxxv, pp. 175, 180.

countries (Poland, February 10, 1925, Treaty Series No. 727; Finland, May 2, 1925, Treaty Series No. 715; Estonia, March 2, 1925, Treaty Series No. 722; Rumania, February 26, 1926, Treaty Series No. 733; Latvia, February 1, 1926, Treaty Series No. 740; Lithuania, December 23, 1925, Treaty Series No. 742; and Haiti, July 8, 1926, Treaty Series No. 746)⁸⁵ and of a part of Article IX of the Anglo-Austrian Treaty, be inserted in Article VII of the draft treaty under negotiation as the fourth paragraph thereof:

[Here follows the fourth paragraph of draft article VII quoted *infra*.]

Fifth paragraph. One further change in Article VII is suggested. It has developed that in certain customs districts of some countries there is a practice of affording to some favored nation privileges not accorded to American commerce. It appears that as such practice is not the result of any express provision of treaty, laws, or regulations, it may be claimed that it is not within the most favored nation provisions of the fourth paragraph of the draft as originally written, now the fifth paragraph. While this Government has not concurred in such an interpretation of that paragraph, it proposes, in order to avoid misunderstandings in regard to such practices, to insert in the paragraph the phrase "by treaty, law, decree, regulation, practice or otherwise." As the proposed phrase only clarifies and does not alter the meaning of the paragraph, it is hoped that the Austrian Government will have no objection to its acceptance.

The complete text of Article VII revised in accordance with the foregoing suggestions is as follows:

"ARTICLE VII

"Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

"Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or charges or bases of such duties or charges, and no conditions or prohibition on the importation of any article, the growth, produce or manufacture of the territories of the other Party, from whatever place arriving, than are or shall be im-

⁸⁵ For notes exchanged with Estonia, Finland, Lithuania, and Poland, see *Foreign Relations*, 1925, vol. II, pp. 66 ff., pp. 86 ff., pp. 500 ff., and pp. 692 ff.; for those with Haiti, Latvia, and Rumania, see *ibid.*, 1926, vol. II, pp. 401 ff., pp. 488 ff., and pp. 898 ff.

posed on the importation of any like article, the growth, produce or manufacture of any other foreign country; nor shall any such duties, charges, conditions or prohibitions on importations be made effective retroactively on imports already cleared through the customs, or on goods declared for entry into consumption in the country.

“Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

“In the event of licenses being issued by either of the High Contracting Parties for the importation into or exportation from its territories of articles the importation or exportation of which is restricted or prohibited, the conditions under which such licenses may be obtained shall be publicly announced and clearly stated in such a manner as to enable traders interested to become acquainted with them; the method of licensing shall be as simple and unvarying as possible and applications for licenses shall be dealt with as speedily as possible. Moreover, the conditions under which such licenses are issued by either of the High Contracting Parties for goods imported from or exported to the territories of the other Party shall be as favorable with respect to commodities, formalities and otherwise as the conditions under which licenses are issued in respect of any other foreign country. In the event of rations or quotas being established for the importation or exportation of articles restricted or prohibited, each of the High Contracting Parties agrees to grant for the importation from or exportation to the territories of the other Party an equitable share, in view of the normal volume of trade in the particular class of goods between the two countries, in the allocation of the quantity of restricted goods which may be authorized for importation or exportation. In the application of the provisions of this paragraph no distinction shall be made between direct and indirect shipments. It is agreed, moreover, that in the event either High Contracting Party shall be engaged in war, it may enforce such import or export restrictions as may be required by the national interest.

“Any advantage of whatsoever kind which either High Contracting Party may extend, by treaty, law, decree, regulation, practice or otherwise, to any article, the growth, produce or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

“With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties

binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals and vessels.

"The stipulations of this Article do not extend to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902,⁸⁶ or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws."

You will note that in the above quoted draft of Article VII no exception in favor of Austrian trade with Czechoslovakia or Hungary is included. Should the Austrian Government insist on such an exception, you will recall that you are authorized to agree to it in the terms set out on page 2 of instruction No. 527 of December 1, 1926.

It is believed that if Article VII as set out above is accepted by Austria a sufficient assurance will have been given of equality of treatment for the commerce of the United States with that of every other country. As equality of treatment of Austrian commerce with that of other foreign countries in the United States is secured by the Treaty, it is believed that the interests of both parties will be conserved by the Article as re-drafted.

Article XXV. Duration and termination of Treaty. The inclusion of the new paragraph proposed above as the fourth paragraph of Article VII may necessitate a change in the provisions of the third paragraph of Article XXV relating to the termination of the Treaty. You will recall that a suggested new paragraph of Article VII was set out on page 3 of instruction No. 527 of December 1, 1926, and that a special mode of termination was provided for it on pages 22 and 23 of instruction No. 552 of February 11, 1927. With the insertion of the new fourth paragraph quoted above, it will be necessary to reconsider Article XXV, so that the paragraph proposed on page 3 of instruction No. 527, if included in the Treaty shall be referred to by its proper number.

I am [etc.]

FRANK B. KELLOGG

⁸⁶ *Foreign Relations*, 1903, p. 375.

711.632/24

The Minister in Austria (Washburn) to the Secretary of State

No. 1372

VIENNA, April 30, 1927.

[Received May 14.]

SIR: I have the honor formally to acknowledge the receipt of the Department's Instructions No. 527 of December 1st, 1926, No. 552 of February 11th, 1927, No. 556 of February 24th, 1927, and No. 566 of April 2nd, 1927, incorporating instructions in regard to the provisions of the proposed Treaty of Friendship, Commerce and Consular Rights between the United States and Austria. I have the honor further to acknowledge the receipt of Instruction No. 573 of April 14th, 1927,⁸⁷ transmitting the President's full power authorizing me to sign such a treaty as finally approved by the Department.

For the reason explained in the concluding sentence of my despatch No. 1106 of July 20th, 1926, I have preferred to deal with Dr. Schüller directly in the preliminary stages of the negotiations. When we have agreed upon the text he will summon his associates for the final joint sessions and I do not doubt but that he will be able to secure their adhesion without material alteration. Schüller is much away from Vienna in connection with his Foreign Office duties (he has recently spent much time in Prague in an effort to reach an agreement with Czechoslovakia with regard to a new commercial treaty) and he is leaving on Monday to attend the Economic Conference at Geneva. He heads the Austrian delegation and expects to be absent about a month. He has assured me that in the month between the middle of June and the middle of July he will be able to work intensively with me on our Treaty, and he hopes to have it concluded and signed before he goes away on his summer vacation. I am confident that the final draft can be in Washington in ample time for submission to the Senate when it reassembles in December.

Meanwhile I have taken some forward steps and, subject to the reservation mentioned on page 3 of my hereinbefore mentioned despatch No. 1106, I herewith report progress:

Article VII. This has been passed for the present. Some fundamental and far-reaching amendments to this Article have been suggested, as the Department is aware, in before-mentioned Instruction No. 566 which the Austrian Government desires to examine carefully. It is possible that objections may be raised to some of the phraseology proposed but in principle, if I understand Dr. Schüller correctly, he will not object to affirmative provisions dealing with quotas and licences and customs formalities.

Article VIII. The suggestion of the United States that the words "internal taxes" be inserted in the seventh line after the word "to" so

⁸⁷ Not printed.

as to read "with regard to internal taxes, transit duties," etc., is accepted.

The Austrian Government is still of the opinion that there is a certain inconsistency between Articles VIII and XIII (see page 5 of the Department's Instruction No. 527). Dr. Schüller is unable to see how "transit duties" (Article VIII) could be imposed upon goods imported into the United States or Austria. I pointed out however that some question of transit duties might conceivably arise with respect to goods temporarily warehoused, for example, in Vienna and ultimately destined for distribution in the neighboring States. In view of this and inasmuch as the alleged conflicting provisions in Articles VIII and XIII appear in our treaty with Germany, Schüller is content to waive further objection.

The only modification of Article VIII is contained in the insertion of the words "internal taxes" as above explained.

Article X. The Austrian Government desires to add at the end of the first paragraph of this Article "The foregoing stipulations do not apply to the organization of and participation in political organizations." This is in accordance with the understanding of the Austrian Government, but in the interest of uniformity it is thought best to incorporate the proposal of the German negotiators.

Article XI. There appears to be a misconception on the part of the Department with respect to the interpretation to be placed upon the Austrian Trade Law (Gewerbeordnung #59) quoted on page 15 of my despatch No. 374 of December 18th, 1923. In Instruction No. 527 of December 1st, 1926, pages 6 and 7, it is stated:

"Apparently Austrian law forbids commercial travelers to take orders for merchandise from the consumer but allows them to sell their merchandise only to merchants, industrials and tradesmen. . . . If commercial travelers representing American concerns are permitted to sell their samples to merchants, industrials or tradesmen, the privilege granted by paragraph (c) would be fulfilled. The Austrian law referred to in your despatch does not, therefore, justify the omission of paragraph (c)."

Austrian municipal law does not in truth and in fact permit commercial travelers to sell to anybody. They may only take orders for merchandise from merchants, industrials and tradesmen. For this purpose they may carry samples, but no merchandise is to be sold directly, and therefore samples may not be sold. The law upon this matter is very stringent and is regarded as almost fundamental and organic, as I have hitherto reported. The main reason for this distinction appears to lie in the fact that commercial travelers pay no taxes. Merchants and tradesmen do pay taxes upon their businesses and upon their sales and to permit commercial travelers to sell, even if their privilege of selling were restricted to samples only, would be deemed

unfair competition. It is pointed out that a commercial traveler might conceivably have and legitimately require a large line of samples. Even under the existing practice it is difficult to control the disposition of these samples and it is possible that some of them find their way into domestic consumption without the sanction of the law. Commercial travelers who are Austrian nationals may not sell their samples. The Austrian Government could not possibly grant a greater privilege to commercial travelers who are not Austrian nationals.

Because of the settled policy of Austrian municipal law in this respect it is insisted that section (*c*) must go out. In view of this explanation further instructions upon this point become necessary and as the issue here involved is not too complicated, I am disposed to telegraph for the desired authority in accordance with the suggestion contained in the concluding paragraph of Instruction No. 552 of February 11th last.

As to section (*g*), the Austrian Government adheres to the view that it would be preferable to retain only so much of the text of the original draft as is embraced in the following words, to wit:

“Salesmen who vend directly to the consumer shall not be considered commercial travelers.”

Dr. Schüller does not himself, however, object seriously to retaining the original phraseology of section (*g*) as proposed by the Department if the United States especially wishes its retention, but he thinks that the provision especially enumerating peddlers would be surplusage in view of the Austrian policy with respect to peddlers explained on page 16 of my before-mentioned despatch No. 374.

To sum up, section (*c*) is unacceptable to the Austrian Government. The Austrian Government prefers that section (*g*) be modified in the interest of clarity as hereinbefore explained, but will not stand out against the retention of the original draft. If section (*c*) be omitted a relettering of some of the sections of Article XI will, of course, become necessary as the Department suggests in its before-mentioned Instruction No. 527.

Article XII. The Austrian Government takes note that the United States accepts the amendment proposed by it to section (*c*), namely to strike out everything after the semi-colon in line 5, so that the paragraph will read as stated on page 9 of the Department's Instruction No. 527. The proposal of the United States to insert the words “or other competent authorities” in the third line of the second paragraph of section (*b*) of Article XII after the word “officials” and to strike out the word “customs” in the ninth line of this same section, so that the section as amended will read as set forth on page 10 of the Department's Instruction No. 527, is accepted.

Article XV. As a result of considerable discussion and explanation and in the interest of uniformity the proposal to substitute for the first paragraph of Article XV the first paragraph of Article XVIII of the Treaty with Germany, so as to subject Consular officers to prosecution for "offenses locally designated as crimes other than misdemeanors", is accepted. The amended paragraph will therefore read as set forth on page 3 of the Department's Instruction No. 552. Dr. Schüller is inclined to agree that the paragraph as amended does meet the criticisms of the original paragraph made by the Austrian negotiators.

The Austrian Government notes that the Department confirms my explanation to the Austrian experts that the proposed treaty provision will effect no change in existing judicial procedure as respects courts in which Austrian consular officers in the United States may be impleaded.

With respect to the suggestion made by the Austrian negotiators that in criminal cases consular officers may be required to testify only as to matters of fact, etc., as set forth on page 2 of my despatch No. 419 of March 4th, 1924,⁸⁸ I went over with Dr. Schüller the provision in the original draft, to wit:

"In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer."

He seemed to regard it as satisfactory and did not press his objection. I think we shall hear nothing further from the objection, but I did not judge it advisable to discuss the matter at length in view of Schüller's attitude. I may say in this connection that Schüller was at first reluctant at this time to discuss any of the consular provisions in the absence of Dr. Leitmaier, Chief of the Bureau of Affairs of International Law, but he finally concluded that some articles could be discussed, especially after summoning Baron Sammaruga [*Sommaruga*] of this Bureau who participated in the latest conference.

Article XVI. Neither Dr. Schüller nor Baron Sammaruga [*Sommaruga*], after examining their memoranda, appeared to desire to press the objection raised to the first paragraph of this Article as set forth on page 20 of my despatch No. 374. I am assuming that the language of the original draft of the first paragraph will therefore stand as proposed by the United States. It is, of course, possible that in full conference the Austrian negotiators may come back to this point, but I do not apprehend any difficulty with it.

The word "governmental" in line 7 of the second paragraph of Article XVI has been stricken out and in lieu thereof the words

⁸⁸ Not printed.

“diplomatic or consular” have been inserted in accordance with the Austrian proposal. This second paragraph will therefore read as set forth on page 10 of the Department’s Instruction No. 552.

Article XVII. The Austrian Government is not disposed to press its suggestions with respect to this Article as set forth on page 22 of my despatch No. 374 and page 2 of my despatch No. 419.⁸⁹ Dr. Schüller, at all events, recognizes the inadequacy of legislative authority inherent in the American Federal Government in enforcing the proposed penal provisions. He noted that the proposed Article XVII conforms precisely with Article XX of the Treaty of the United States with Germany and Article XVII of the Treaty with Hungary.

At this point the discussions were adjourned. Dr. Schüller was especially anxious to consult with Dr. Leitmaier, hereinbefore mentioned, with respect to Article XX dealing with the competency of consular officers to take charge of property of deceased nationals and to qualify as administrators.

I have [etc.]

[No signature]

711.632/24

The Secretary of State to the Minister in Austria (Washburn)

No. 602

WASHINGTON, June 23, 1927.

SIR: The Department has received your despatch No. 1372 of April 30, 1927, relating to the Treaty of Friendship, Commerce and Consular Rights under negotiation between the United States and Austria. It has been noted that you have preferred to deal with Dr. Schüller directly in the preliminary stages of the negotiations and that the understandings reached with Dr. Schüller on the articles reported upon in despatch No. 1372 are subject to consideration by and approval of certain of his associates, although Baron Sommaruga of the Bureau of Affairs of International Law participated in the discussions on the consular articles.

Article VII. Importations, exportations, most favored nation clause, etc. Note has been made of the fact that Article VII has been passed for the present, the Austrian Government desiring to examine carefully the amendments suggested by this Government in instruction No. 566 of April 2, 1927.

Article VIII. Internal taxes, transit duties, etc. The Department has noted that its suggestion that the words “internal taxes” be inserted in the seventh line of Article VIII after the word “to” so as to read “with regard to internal taxes, transit duties”, et cetera has been accepted by Dr. Schüller, and that he has waived his objection

⁸⁹ Not printed.

to the term "transit duties" in this Article. The Article therefore will read as set forth on page 5 of instruction No. 527 of December 1, 1926.

Article X. Right to organize corporations. It has been noted that Dr. Schüller desires the insertion of the sentence "The foregoing stipulations do not apply to the organization of and participation in political associations" at the end of the first paragraph of Article X to which the Department indicated in instruction No. 527 it would be willing to agree. It is understood, therefore, that the final draft of the Treaty will contain this sentence.

Article XI. Commercial travelers. The Department has noted from your explanation that the Austrian Trade Law does not permit commercial travelers to sell to anyone and that the prohibition extends even to the sale of samples by salesmen of Austrian nationality. You state that the law is regarded as almost fundamental and organic. In view of your statements the Department is disposed to accept the Austrian suggestion that section (c) of article XI be stricken out. In agreeing to the omission of this section the Department would like to receive the assurance of the Austrian negotiators that if during the life of the Treaty the right stipulated in section (c) should be conferred by law, treaty or otherwise upon commercial travelers of any other country, the same right would be extended to American commercial travelers in Austria by virtue of section (i) of Article XI. As noted in your despatch under acknowledgment the omission of section (c) will necessitate the relettering of all the sections of Article XI following section (b).

In the interest of uniformity in the treaties of the United States and of the possibility of peddlers of Austrian nationality vending wares in the United States, the Department would like to retain section (g) as it appears in the original draft. Inasmuch, however, as it agreed on page 8 of instruction No. 527 of December 1, 1926, to accept the provision "Salesmen who vend directly to the consumer shall not be considered commercial travellers" as a sufficient provision in regard to this matter, you are authorized to adopt that provision in lieu of section (g) of the original draft.

Article XII. Commercial travelers. Note has been made of the fact that Austrian negotiators have accepted this Government's suggestion that the words "or other competent authorities" be inserted in the third line of the second paragraph of section (b) of Article XII after the word "officials" and that accordingly the word "customs" in the ninth line of the same paragraph should be stricken out. The section as amended will read as set forth on page 10 of instruction No. 527.

Article XV. Criminal and civil jurisdiction over consular officers. The Department notes that the Austrian negotiators agreed

to substitute for the first paragraph of Article XV of the original draft a paragraph similar to the first paragraph of Article XVIII of the Treaty of 1923 between the United States and Germany which is quoted on page 3 of instruction No. 552 of February 11, 1927, so as to subject consular officers to prosecution for "offenses locally designated as crimes other than misdemeanors."

It is further noted that the Austrian negotiators apparently regarded the second paragraph of Article XV as contained in the original draft as satisfactory and did not press the suggestion first made that the paragraph be altered to provide specifically that in criminal cases consular officers may be required to testify only as to matters of fact. As pointed out in instruction No. 552, the Department is of the opinion that the provision of the original draft satisfactorily covers the situation, and it is therefore pleased to note your opinion that the Austrian suggestion will be dropped.

Article XVI. Exemption of consular officers and Government property from taxation. The Department notes your statement that the Austrian negotiators apparently did not desire to press the objection originally raised to the first paragraph of Article XVI relating to the taxation of income of consular officers derived from other than immovable property as that objection was set forth on page 20 of your despatch No. 374 of December 18, 1923, and that therefore you assume that the paragraph will stand as proposed by the United States, but that it is possible that in full conference the Austrian negotiators will return to it.

You state that in accordance with instruction No. 552 authorizing you to accept the Austrian suggestion on the point, the word "governmental" in line 7 of the second paragraph of Article XVI has been stricken out and "diplomatic or consular" inserted in lieu thereof and that the paragraph will therefore read as set forth on page 10 of Instruction No. 552.

Article XVII. Privileges of consular officers. The Department notes your statement that the Austrian Government was not disposed to press its suggestion as set forth on page 22 of your despatch No. 374 of December 18, 1923, and page 2 of your despatch No. 419 of March 4, 1924,⁹⁰ that provision be made in Article XVII for the protection of consular titles, arms and flags against illegal use. It is presumed therefore that the Article will remain as written in the original draft.

The Department is pleased with the manner in which you are conducting the negotiations and with the success with which you are maintaining this Government's position. It is hoped that you will be able to make steady progress in the further negotiations so that the

⁹⁰ Latter not printed.

Treaty may be signed in ample time for submission to the Senate at the session which will convene in December.

If further questions arising in the course of the negotiations are not too numerous or complicated, the Department will with a view to expediting the completion of negotiations be glad to have you report by telegram in regard to such points as you may desire further instructions.

Mention is made of the fact that your despatch No. 1372 of April 30, 1927, was not signed.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

711.632/24

The Secretary of State to the Minister in Austria (Washburn)

No. 605

WASHINGTON, June 30, 1927.

SIR: In further reference to Articles XI and XII of the Treaty of Friendship, Commerce and Consular Rights, under negotiation between the United States and Austria, you are instructed as follows:

You may call the attention of the Austrian negotiators to Article XIV of the Treaty of Friendship, Commerce and Consular Rights, between the United States and Estonia, signed December 23, 1925, two copies of which are enclosed,⁹¹ which contains a most favored nation clause in regard to the treatment of commercial travelers, and to paragraph 2 of the Protocol of that Treaty relating to certificates of identification of such travelers. (Treaty Series No. 736).

If the Government of Austria should desire the substitution of an Article stipulating generally for most favored nation treatment for commercial travelers instead of Articles XI and XII of the draft under negotiation, this Government would be willing to give consideration to agreeing thereto.

An article drafted by this Government combining the provisions of paragraph 2 of the Protocol of the Treaty with Estonia, somewhat modified, with Article XIV of that Treaty, has been included in drafts of treaties of friendship, commerce and consular rights which this Government has submitted to other countries. The Article reads:

“Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

⁹¹ *Foreign Relations*, 1925, vol. II, p. 70.

“If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory.”

You will observe that the first paragraph provides for the most favored nation treatment of commercial travelers representing manufacturers, merchants, or traders, domiciled in the territories of one of the Contracting Parties upon their entrance into, sojourn within and departure from the territories of the other. The second paragraph covers the cases where a certificate of identity of the commercial traveler may be required. This Government will be glad to agree to the inclusion of this Article in the treaty under negotiation with Austria instead of Articles XI and XII of the original draft, if after consideration of the facts in regard to the treatment which would be accorded under such an Article to American commercial travelers in Austria, it should decide that that treatment would be satisfactory. Under the Article stipulating for most favored nation treatment, Austrian commercial travelers in the United States would be entitled to the benefit of the provisions of Articles XI and XII of the Treaty of 1925 between the United States and Hungary and of Articles XIV and XV of the Treaty of 1923 between the United States and Germany, so long as those treaties remain in force. It is to be noted, therefore, that Austrian commercial travelers in the United States will enjoy the same treatment under the most favored nation clause as they would enjoy under Articles XI and XII as originally drafted. Before you agree to the insertion of this Article in the Treaty with Austria the Department would be glad to receive from you a report on the treatment which American commercial travelers in Austria would be entitled to receive thereunder in order that further instructions may be given you in regard to it. The Department is taking this question up with the Department of Commerce which may already have sufficient information in regard to the treatment accorded commercial travelers under Austrian laws and regulations, to enable this Government to reach a decision and telegraph instructions to you before receiving a report from you.

The Department does not desire to introduce any new questions into the negotiations with Austria which would cause delay in completing them. It will be satisfactory to this Government if, before further instructions are sent to you concerning the provisions relating to commercial travelers, the Treaty is signed having Articles XI and XII of the original draft included therein, modified pursuant to your despatches and the Department's instructions preceding this instruction. It is thought, however, that consideration of the foregoing by the Legation and the Austrian Foreign Office may be useful.

Two copies of the Article in regard to commercial travelers hereinabove quoted are enclosed. If it is included in the Treaty, Articles XI and XII of the draft should be dropped out, the new Article should be numbered Article XI and Articles XIII and following of the draft should be renumbered Articles XII and following.

I am [etc.]

FRANK B. KELLOGG

711.632/27

The Minister in Austria (Washburn) to the Secretary of State

No. 1468

VIENNA, July 11, 1927.

[Received July 25.]

SIR: I have the honor to report the practical termination of the negotiations of a treaty of Friendship, Commerce and Consular Rights with Austria. I have heretofore taken the precaution of pointing out to the Government that my agreement with Dr. Schüller were necessarily tentative, but that I felt confident that he would in the main be able to override his colleagues in plenary session if the necessity therefor should arise. I am happy to be able to now say that Dr. Schüller has stood loyally by his understanding with me. He notified me in advance confidentially that there would be various objections raised in the plenary sessions, but that he would do his best "to kill them" so far as he consistently could.

I now review as concisely as possible the chief articles which were the subject of the most controversy. Only Articles VII, XI and XII will require further consideration by the Department:

Article I. Right to enter, engage in business, lease land etc. The Austrian negotiators came back to paragraphs (A), (B) and (C) set forth on page 3 of my despatch No. 374 of December 18, 1923, and referred to on page 1 of the Department's Instruction No. 556 of February 24, 1927. They were for a time reluctant to abandon these provisions, but finally did so upon a rehearsal of the arguments I had hitherto employed with Dr. Schüller as recapitulated briefly on page 2 of the Instruction last under reference.

The Austrian proposal providing for the leasing and owning of agricultural lands caused more difficulty. In the initial sessions Schüller and his colleagues were inclined to think that this difficulty might be cured by an exchange of notes, as authorized on page 6 of Instruction 556, based on the tabulation of State laws regarding alien ownership of real property transmitted with this Instruction. There was a disposition to agree that substantial reciprocity existed, but on further reflection the legal experts of the Foreign Office reached the conclusion that under such an arrangement, under Austrian judicial procedure the courts would insist upon examining each

case arising here on its merits, a procedure which would prove clumsy, and perhaps embarrassing. In the end, therefore, it was decided to adopt the proposal for the substitution of the three paragraphs set forth on pages 6 and 7 of Instruction 556. In the revised draft which accompanies this despatch⁹² these three paragraphs appear in lieu of the former first paragraph of Article I.

The main difficulty was, however, regarding the inclusion of the final paragraph providing that nothing in the treaty shall be considered to affect existing immigration statutes or the right of either party to enact such statutes. There was a very strong preference expressed by Schüller's colleagues for the procedure followed in the cases of the treaties with Germany and Hungary, namely for the omission of the paragraph, the Senate reservation and the exchange of notes. I pointed out that the German and Hungarian treaties were negotiated before the Senate acted, but it having acted, the Department would feel that it was inviting adverse criticism if it should submit a future treaty without such a corresponding provision. The fact that such a provision was incorporated in the subsequent treaty with Esthonia made no impression on the Austrian negotiators. They cared nothing for Esthonia but attached much importance to the German and Hungarian precedents; they finally receded however, but I was warned that the inclusion of this final paragraph would lead to a parliamentary attack when the treaty came up for ratification—perhaps from representatives of all parties, inasmuch as the very small Austrian quota affects this country adversely. The separation of families consequent upon the operation of the immigration law is the subject of much complaint to which cabinet ministers and deputies have constantly to pay heed. It was the opinion of the negotiators that a Senatorial reservation and an exchange of notes would not attract so much attention.

As to this Article, therefore, the American proposals are all accepted.

Article VI. Compulsory military service. This provision stands as originally drawn, though Schüller's colleagues came back to the original suggestion of dropping the provision and taking care of the subject matter by an exchange of notes.

Article VII. Importations, exportations, most favored nation clause, etc. The consideration of this article, which has been greatly amplified, as the Department is aware, by Instruction 566 of April 2 last, required numerous conferences and sessions. I may say in this connection that the greatest obstacles were interposed by the Department of Commerce, and the Foreign Office felt that the desires of a coordinate branch of the Government, in some cases strongly expressed, could not be lightly waved aside. The argument which

⁹² Enclosure not printed.

I had so often invoked with respect to other articles, namely the desirability of uniformity so as to have the Austrian provisions correspond with the German and Hungarian, was in this instance turned against me. Nevertheless it was conceded that the Austrian Government had been a party to the International Agreement concluded at Geneva on November 3, 1923, which dealt in article 3, as the Department is of course aware, with import and export prohibitions and restrictions, and there was no real objection to concluding a similar agreement with the United States. I herewith submit a revised draft of Article VII (sometimes expressed in the alternative) to conform to the Austrian views:

"Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

"Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or charges ~~or bases of such duties or charges,~~ and no conditions or prohibition on the importation of any article, the growth, produce or manufacture of the territories of the other Party, from whatever place arriving, than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country; nor shall any such duties, charges, conditions or prohibitions on importations be made effective retroactively. (Or the last clause may read: 'nor shall any such duties, charges, conditions, or prohibitions on importations be made effective retroactively on imports already cleared through the customs, or on goods declared for entry into consumption in the country, but it is understood that prohibitions on importations existing at the time the imports are cleared through the customs may nevertheless be applied')

"Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

"In the event of licenses being issued by either of the High Contracting Parties for the importation into or exportation from its territories of articles the importation or exportation of which is restricted or prohibited, the conditions under which such licenses may be obtained shall be publicly announced and clearly stated in such a manner as to enable traders interested to become acquainted with them; the method of licensing shall be as simple and unvarying as possible and applications for licenses shall be dealt with as speedily as possible. Moreover, the conditions under which such licenses are

issued by either of the High Contracting Parties for goods imported from or exported to the territories of the other Party shall be as favorable with respect to commodities, formalities, and otherwise as the conditions under which licenses are issued in respect of any other foreign country. In the event of rations or quotas being established for the importation or exportation of articles restricted or prohibited, each of the High Contracting Parties agrees to grant for the importation from or exportation to the territories of the other Party an equitable share, in view of the normal volume of trade in the particular class of goods between the two countries; in the allocation of the quantity of restricted goods which may be authorized for importation or exportation. In the application of the provisions of this paragraph no distinction shall be made between direct and indirect shipments. It is agreed, moreover, that in the event either High Contracting Party shall be engaged in war, it may enforce such import or export restrictions as may be required by the national interest.

“(In lieu of the sentence above stricken out, beginning: ‘In the event of rations or quotas, etc.’ the following sentence will be acceptable to the Austrian Government: ‘In the event of rations or quotas being established for the importation or exportation of articles restricted or prohibited, the formalities required by the importing or exporting country shall not be such as to prevent an equitable allocation of the quantities of goods of which the importation or exportation is authorized.’)

“Any advantages of whatsoever kind which either High Contracting Party may extend, by treaty, law, decree, regulations, practice or otherwise, to any article, the growth, produce or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation be extended to the like article, the growth, produce or manufacture of the other High Contracting Party.

“All articles which are or may be legally imported from foreign countries into ports of the United States or are or may be legally exported therefrom in vessels of the United States may likewise be imported into those ports or exported therefrom in Austrian vessels, without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Austria or are or may be legally exported therefrom in Austrian vessels may likewise be imported into these ports or exported therefrom in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in Austrian vessels.

“With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simul-

aneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals and vessels.

"The stipulations of this Article do not extend to the treatment which either High Contracting Party shall accord to adjoining states to facilitate border traffic or to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902, or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws."

or:

"The stipulations of this Article shall not extend to the treatment which either Contracting Party shall accord to purely border traffic within a zone not exceeding ten miles (15 kilometres) wide on either side of its customs frontier, or to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902, or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws."

Comparing this revised draft with the draft proposed by the Department on pages 5, 6, and 7 of Instruction No. 566 of April 2, it will be noted that the clause in the third line of paragraph 2, to wit, "or bases of such duties or charges" is objected to on the ground that it does not appear in the text of the German or Hungarian treaties, and that its meaning is obscure. The words "nor shall any such duties, charges, conditions or prohibitions on importations be made effective retroactively on imports already cleared through the customs or on goods declared for entry into consumption in the country" are of course also new, and not found in the German or Hungarian treaties. There was no objection, however, to adding the words "nor shall any such duties, charges, conditions or prohibitions on importations be made effective retroactively". There was a willingness to accept all of the new language proposed, provided there be added the words: "but it is understood that prohibitions on importations existing at the time the imports are cleared through the customs may nevertheless be applied". The Austrian difficulty is this. The negotiators are quite willing to agree that duties, charges, conditions and prohibitions shall not be retroactive, but they say certain import prohibitions cannot be applied until after importation. For example, obscene reading matter would, under the Austrian customs system, encounter little or no difficulty on entry, although an import prohibition exists against it, but it would subsequently very likely be confiscated by the police.

A film might be imported without difficulty—customs officials could not judge of its character—but it could not be exposed until it had received the approval of the censors. Therefore some language is desired to save the right of making such import prohibitions in force at the time of entry effective after the goods have been cleared through the customs. The language here proposed is my own, incorporating the idea expressed to me in German. I trust that the Department, in view of the Austrian difficulty, will see no real objection to it. It is possible, however, that the Department may prefer to stop with the word “retroactively”. Under our practice “estimated duties” are always imposed by collectors on merchandise cleared through the customs, and it sometimes happens that these “estimated duties” do not always agree with the amount of duties ascertained to be due several months later on final liquidation. I frequently encountered such cases in my former practice. It might be wise on this account, in order to avoid diplomatic complaints against the United States, to stop with the word “retroactively”, though if the entire wording as proposed by the Department be preserved, the addition of the words “but it is understood that prohibitions on importations existing at the time the imports are cleared through the customs may nevertheless be applied” will not, I think, weaken the principle for which the Department is contending.

As to paragraph 4 of this article as proposed by the United States, the Austrian Government objects to the words “with respect to commodities, formalities and otherwise”. The word “commodities” does not appear anywhere in the International Agreement of November 3, 1923, and the words “and otherwise” are thought to be too vague. The sentence beginning: “In the event of rations and quotas being established, etc.” is objected to as suggested by the United States. There is no objection in lieu of this sentence to adopting this phraseology, to wit: “In the event of rations or quotas being established for the importation or exportation of articles restricted or prohibited, the formalities required by the importing or exporting country shall not be such as to prevent an equitable allocation of the quantities of goods of which the importation or exportation is authorized”. This is in conformity with the language found in article 3 (*e*) of the International Agreement of November 3, 1923. This sub-paragraph 3 (*e*) was a French proposal. It will be observed that it simply stipulates that the formalities shall not be such as to prevent an equitable allocation, etc. This language is somewhat limited and the Department may regard it as unsatisfactory. My attention is drawn to the fact that at the recent World Economic Conference at Geneva in its final report there was a recommendation that there should be a new definition of the most favored nation principle, and Dr. Schüller tells me that the American delegates were prominent in

advocating this. The Austrian delegates make the point that France does not recognize that the favored nation principle applies to rations or quotas or contingents, but that if the American proposal in this regard were accepted by Austria, it would probably expose Austria to a claim by France for favored nation treatment in this respect which would be unilateral, as France would not concede it in return. If this particular provision, which now finds its counterpart in article 3 (e) of the International Agreement of November 3, 1923, should be modified by a new international agreement to which the United States would not be a party, the Austrian Government stands ready to stipulate by an exchange of notes that favored nation treatment should be accorded to us. To re-state this matter: The language proposed by the United States is unacceptable, because it would enlarge Austria's obligations under the application of the favored nation principle, but if a more liberal provision be adopted by international agreement, Austria will bind itself to give us the benefit of it. Under such conditions, it would seem advisable to eliminate altogether the sentence beginning: "In the event of rations or quotas being established", and I trust that this recommendation will meet with the Department's approval.

There was some objection to the word "war" in the last sentence of this paragraph 4. It was desired to substitute, "in times of national emergency", but this objection was not pressed.

It will be noted that paragraph 6 of article VII incorporates the so-called "shipping clause" authorized by the Department on page 3 of Instruction 527 of December 1, 1926. This, of course, necessitated a revision of article XXV in accordance with the views set forth on page 8 of Instruction 566 of April 2.

Finally, in the concluding paragraph of article VII, the Minister of Commerce desired to incorporate language conferring the privilege accorded in the final paragraph of article VII of the treaty between the United States and Germany. The Austrian Government would prefer the language: "The stipulations of this article do not extend to the treatment which either High Contracting Party shall accord to adjoining states to facilitate border traffic" but would be content with this language, more closely corresponding to the text in the German treaty, to wit: "The stipulations of this article shall not extend to the treatment which either Contracting Party shall accord to purely border traffic within a zone not exceeding ten miles (15 kilometres) on either side of its customs frontier". If the Department sees no particular objection, I should be glad if the preference of the Austrian Government could be approved.

Article XI. Commercial travelers. This article has been amended in accordance with the authority accorded on pages 2 and 3 of Department's Instruction 602 of June 23, 1927. The Austrian Government

further proposes to add at the end of the first sentence of paragraph (a) of this article: "Commercial travelers shall not be subject to any other fee or tax on account of such activity". This is also a recent proposal of the Department of Commerce. It is said that in some of the Succession States an attempt has been made to tax Austrian commercial travelers upon the proceeds of sales made by them. This has happened especially in Czechoslovakia, and the insertion of such a clause in the treaty between the United States and Austria would strengthen the attitude of Austria upon this point, and would be much appreciated.

Article XII. Commercial travelers. The changes made, noted on pages 3 and 4 of Instruction 602 of June 23, 1927, have been incorporated. Furthermore, the Austrian Government, pursuant to the desires of the Ministry of Commerce, proposes to strike out paragraph (d) in regard to advertising matter brought by commercial travelers in appropriate quantities. The Austrian law imposes a tax on advertising matter, except in very small quantities, brought in by commercial travelers, as it would on any other printed matter. The negotiators did not fail to note that this particular provision is "subject to the customs laws of the respective countries" in accordance with its express terms, but nevertheless they thought that the words "appropriate quantities" would be prolific of constant controversies, under cover of the favored nation principle, with the Succession States. The policy of the Austrian law in this respect is fixed, and inasmuch as this principle is recognized, it is felt that to introduce a provision which might lay the foundation for controversy would be most unwise. The Department of Commerce is most insistent upon this particular point.

The Foreign Office gives notice of its intention to notify me, with reference to the wording of sub-paragraph (c), that under Austrian law, commercial travelers are not allowed to sell to consumers. This is indirectly said in sub-paragraph (f) of Article XI.

Article XV. Criminal and civil jurisdiction over consular officers. I have already reported upon this article in my despatch No. 1372 of April 30. There will be no change in it, though in plenary session Schüller's associates were disposed to press the objection that consular officers could only be called upon to testify as to matters of fact. The argument embodied on page 5 of Instruction 552 of February 11 reassured them, however.

Article XVI. Exemptions of consular officers and government property from taxation. There was some difficulty here in persuading Schüller's colleagues to agree to the provision as revised on page 9 of Instructions 552 of February 11. The objection was chiefly to the language: "except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from sources within the territories of the State within which they exercise

their functions". The Austrian negotiators desired this language: "except taxes levied on account of income derived from any property situated within the territories of the State within which they exercise their functions, according to the laws of that State, upon all foreigners who have no domicile or residence within that State". The American language was, however, ultimately accepted.

Article XX. Competency of consular officers to take charge of property of deceased nationals, qualify as administrator, etc. The Austrian amendments as recited on page 11 of Department's Instruction 552 were quite vigorously pressed. It appears that there have been various complaints filed with the Foreign Office, either from the Austrian Legation in Washington or from Austrian consuls in the United States with respect to the restricted competency of Austrian consular officers in this regard. I developed at some length the argument that this was a matter wholly within the jurisdiction of the States, and the Federal Government did not feel at liberty to encroach further upon State prerogatives. The American draft was accepted.

Article XXI. Competency of consular officers to receive funds, etc. This paragraph has been revised in accordance with the authority found on pages 16, 17 and 18 of Instruction 552. Note that the article as revised will read as follows:

"A consular officer of either High Contracting Party may in behalf of his non-resident countrymen collect and receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes, for transmission through channels prescribed by his Government to the proper distributees."

Article XXII. Exemptions from duty on importations of consular supplies and belongings of consuls. This article has been revised in accordance with the authority accorded on page 18 of Instruction 552. The Austrian negotiators discussed the possibility of having this article correspond with the language found in Article XXVII of the treaty with Germany and Article XXII of the treaty with Hungary. The Department of Finance, however, preferred the more restricted phraseology which corresponds with Austrian municipal law and practice.

Article XXIII. Definition of territories and nationals. This article has been amended in accordance with the Department's suggestion on page 21 of Instruction 552.

Article XXIV. Treaty of August 24, 1921, establishing friendly relations. The Austrian negotiators desire to incorporate the language "or to Austria or its nationals" as authorized on page 21 of Instruction 552.

Article XXV. Duration and termination of treaty. This article has been altered in conformity with the revision on page 23 of Instruc-

tion 552, except that it is provided that eight years is substituted for ten years. The reason for this is that while the Austrian Government does not oppose long-term treaties, it has so far committed itself to no corresponding treaty beyond the beginning of 1935. The Anglo-Austrian treaty of May 22, 1924, mentioned on page 3 of Instruction 566 may terminate, in accordance with its terms, in February, 1935. The Government may desire a general revision of all its commercial treaties at this period, and therefore did not desire to be hampered in this respect. It preferred six or seven years, but agreed to eight. One year more or less made no particular difference, but it was felt that two or three or four years might prove embarrassing.

I am enclosing herewith a revised draft in accordance with the foregoing.⁹³

To recapitulate: Upon analysis it will be noted that the only articles really requiring the Department's scrutiny and further instructions are articles VII, XI and XII. Of these, VII and XII are the most important. If it had not been for the rather elaborate explanation in regard to article VII, made necessary of course by the Department's revised instructions, incorporating the new provisions found in Instruction 566 of April 2, I should have telegraphed with respect to the other two articles in accordance with the Department's authorization. I trust it will be evident that the United States has secured as a result of the negotiations practically what it asked for, and that the new language interpolated in article VII marks a very substantial advance in the direction desired. The Austrian negotiators feel that they have receded on most of their conditions, as indeed they have, and if the Department can see its way clear to do so, I trust it will speedily meet the Austrian views with respect to the three articles in question, and express its preference for the various alternatives suggested. If my final instructions could be communicated by telegraph, it would be most helpful. The Foreign Office is beginning to put the text into German and a draft, subject to my final instructions of course, will be in my hands towards the end of the month. The Foreign Office official who has this matter particularly in hand will leave for a three weeks' vacation the last week in July, returning about August 12. By that time it is hoped that I may have my final telegraphic instructions. The treaty will then be set up in type in accordance, of course, with Instruction 573 of April 14,⁹⁴ and any typographical errors or discrepancies will be discovered and corrected. The revised draft as herewith submitted was initialled today by Dr. Schüller and myself. It is understood that the only articles now left open for discussion are VII, XI and XII, as above indicated. Schüller leaves tomorrow morning, to be absent until September. The possi-

⁹³ Enclosure not printed.

⁹⁴ Not printed.

bility of slight error in the text is not excluded but I can assure the Department that the final draft for signature will be carefully checked, both as to text, spelling and punctuation.

It is probable that the Chancellor, Dr. Seipel, will sign on behalf of Austria, though this is a matter for the cabinet council to decide. The power of attorney may be given to the Minister of Commerce, who is quite keen about his prerogatives in such matters, I am told. The Chancellor will return from his vacation in Karlsbad the latter part of August, and I hope around that time the treaty can be concluded. I am rather anxious about this because it is quite possible that there may be a cabinet crisis in the autumn—some time in September—if the parliamentary situation does not improve. If there should be cabinet reconstruction, some serious delay might ensue. I know it is the Department's desire that the treaty be in Washington in ample time for submission to the Senate when Congress reconvenes, whether it be October, November or on the first Monday in December. For these reasons I am emboldened to label this despatch urgent, and to ask for early instructions.

I have [etc.]

ALBERT H. WASHBURN

711.632/29 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, September 10, 1927—noon.

[Received September 10—10:25 a. m.]

53. My despatch No. 1468, July 11. I urge, if feasible, telegraphic instructions regarding treaty articles 7, 11 and 12 which alone remain open for discussion. This is important because Schüller has just returned from Switzerland for limited stay. We have agreed upon German text and typographical and clerical errors have been eliminated. Final line of article 25 should of course read "such paragraph" and not "such paragraphs or articles".

Department's instruction No. 605, June 30, page 3, investigation discloses no discrimination against American commercial travelers in Austria.

WASHBURN

711.632/29 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, September 13, 1927—2 p. m.

15. Your despatch No. 1468, July 11 last, and telegram No. 53, September 10, noon.

1. Except as to Articles seven, eleven and twelve, text of treaty transmitted by you is approved. Department approves term of eight years and correction in Article 25.

2. Department of Commerce has examined provisions of Austrian law and treaties in regard to commercial travelers. It is of opinion that rights and privileges of American commercial travelers in Austria would be amply safeguarded by most favored nation article in instruction No. 605 of June 30 last and expresses definite preference for the latter. Please endeavor to have it accepted. If agreed to by Austria further consideration of unsettled questions in Articles eleven and twelve will be unnecessary.

3. Department of Commerce accepts in part but not in their entirety proposals of Austrian Government in regard to Article 7. This Department has report from Department of Commerce under consideration and will send instructions at earliest date possible.

KELLOGG

711.632/28 : Telegram

The Acting Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, September 23, 1927—6 p. m.

17. Your despatch No. 1468, July 11 last. Article seven.

1. Bases of Duties. In case of duties or charges expressed as a percentage, bases refers to value upon which duty is calculated, namely, whether invoice value, value at the frontier, duty-paid value, wholesale or retail prices; in case of duties or charges collected by weight or quantity, reference is to dutiable weight, whether gross, net, or other weight basis. It is obvious that effective most-favored-nation treatment could in practice be denied through discrimination in the basis upon which duty is collected. The purpose of this Government is to make clear that most-favored-nation treatment includes bases of duties. While this Government considers that the provisions of the original draft of Article VII cover by implication the bases on which duty is computed, it believes that it is desirable to have the assurance stated specifically as in the new draft. It is hoped that with this explanation the phrase will be accepted by the Austrian negotiators. It is included in drafts which this Government now has under negotiation with other countries.

2. Retroactive Application. You are authorized to agree that the clause end with the word "retroactively."

3. Licensing Systems. The United States regards the provisions of the International Customs Agreement of 1923 and the substitute provision proposed by Austria to the American draft as inadequate, because they give assurance only with regard to formalities to be observed in granting licenses, and do not give assurances as to commodities and the relative quantities thereof. The resolutions of the Geneva Economic Conference of 1927 recommended that "the scope and form of the most-favored-nation clause should be of the widest and most liberal

character, and it should not be weakened or narrowed either by conditions expressed or by interpretation." The embodiment in a permanent commercial treaty of provisions limiting the assurances with regard to the favorable treatment to formalities in connection with licenses, and omitting the material factors of commodities and quantities would be a narrowing of the favored-nation clause in a way to which this Government would not agree. This Government hopes that the Austrian Government will agree to the precise assurances of most-favored-nation and equitable treatment contained in paragraph 4 of the American draft.

4. **Emergency Exceptions.** The Department would be glad if Austria will accept the exception limited to "war". It desires to avoid a term which might be interpreted to include financial or economic crises. If Austria insists upon an enlargement of this exception, you are authorized to agree to "in the event either High Contracting Party shall be engaged in war, or shall experience similar national emergency."

5. **Frontier Traffic.** This Government considers that it is desirable to define the limits of the frontier traffic. You are, therefore, authorized to accept the second of the alternatives quoted in your despatch.

6. It is understood that a copy of a memorandum by Mr. Chalmers⁹⁵ was sent to the Commercial Attaché at Vienna who will be glad to render any assistance you may desire.

CARR

711.632/30 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, September 26, 1927—11 a. m.

[Received 11:55 a. m.]

56. Department's telegram 17, September 23, 6 p. m.

1. Schüller will accept "bases of duties" clause if Finance Ministry, which objects, will recede.

2. Retroactive application. Agreed as authorized.

3. Licensing. Passed.

4. Emergency exceptions limited to "war".

5. Frontier traffic. Austrian Government will agree to second alternative if it must, but greatly prefers first, on the ground that kilometre limitation difficult to observe, especially because of conditions on Czech border. It still [hopes?] first alternative may be accepted.

Reverting to 3, Schüller asserts he sympathizes with "equitable treatment" idea mentioned in paragraph four of American draft but experts have labored in vain to draft acceptable formula. He espe-

⁹⁵ Mr. Henry Chalmers of the Bureau of Foreign and Domestic Commerce, Department of Commerce.

cially regards words "in view of normal volume of trade in the particular class of goods between the two countries" as equivocal and troublesome. "The particular class of goods" might be new at least to the commerce of the two countries and there would consequently be no "normal volume of trade" and therefore no share of ratios or quotas could be granted. This illustrates his difficulty of applying in practice "equitable treatment" principle.

Schüller made it plain he was unwilling to anticipate precise equitable treaty formula in advance of possible action [at] approaching Geneva Economic Conference but he would accept now if agreeable to American Government my unauthorized tentative suggestion to insert "restrictions" after prohibitions in line eighteen, page five, my despatch number 1468, July 11th, and to insert "conditions" in lieu of "formalities" in line 21, page 6. These changes would enlarge scope of favored nation guarantees as expressed affirmatively and negatively.

[Paraphrase.] The American definition of "equitable treatment" is suggested by Schüller for submission to the Economic Conference meeting October 17. If adopted there, he will accept the same. He apparently expects vigorous opposition from the French. Commercial Attaché Groves has been ordered by the Department of Commerce to attend as an expert on contingents and prohibitions... [End paraphrase.]

Department's telegram number 15, September 13, 2 p. m. The first paragraph of favored nation article in instruction number 605 of June 30th acceptable. As to second paragraph, legal opinion awaited as to kind of identification document permissible under Austrian law.

WASHBURN

711.632/31

The Minister in Austria (Washburn) to the Secretary of State

No. 1554

VIENNA, October 4, 1927.

[Received October 14.]

SIR: With respect to the concluding paragraph of my telegram No. 56 of September 26, 11 a. m., wherein it was stated that the legal opinion was awaited as to the kind of identification documents for commercial travelers permissible under Austrian law, I have the honor to report the following:

It develops that practically all of the commercial treaties regulating this particular matter which Austria has entered into, prescribe that certificates for commercial travelers shall be issued by the Chambers of Commerce of the country of departure. In Austria the law requires that certificates of Austrian commercial travelers shall be issued by the Police Direction in Vienna and by the Political

Authority of the First Instance in other places. The United States proposes:

"If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory."

If this language were adopted, Austria fears that under the operation of the favored nation principle she would have to accept signed statements by employing concerns generally, and whilst there appears to be no objection to this as far as the United States is concerned, there would be objection to accepting such certificates from the commercial travelers of certain other countries that could be mentioned. The Foreign Office therefore suggests in lieu of the language proposed by the United States, the following:

"If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, such document to be issued by the authority to be designated in each country for the purpose shall be accepted as satisfactory."

This phraseology, it will be observed, embodies language found in the second paragraph of the new proposed Article XI, as found on page 2 of Department's Instruction No. 605 of June 30 last, and in paragraph (b) of Article XI as originally proposed by the Department. It is the thought of the Foreign Office that inasmuch as the language in said sub-paragraph (b), to wit: ". . . this certificate which shall be issued by the authority to be designated in each country for the purpose . . . was proposed by the United States, there can be no objection to it and no difficulty in its application. It is assumed by the Austrian Government that the United States would designate Chambers of Commerce or some administrative body conforming with the European practice. The Austrian Government has no particular objection to having the certificate mentioned in subparagraph (b) viséed by the consul of the country in which the applicant proposes to operate, as is there provided, but prefers to eliminate such a requirement on the ground that it would multiply the fees. In this connection I direct attention to Article 13 of the Commercial and Nautical Treaty between Austria and Great Britain concluded on May 22, 1924, with which the Department is no doubt familiar, and which is said to be more or less typical of provisions of this character:

"The stipulations of the present Treaty with regard to the mutual accord of the treatment of the most favored nation apply uncon-

ditionally to the treatment of commercial travelers and their samples. The certificates for commercial travelers shall be issued in the territories of His Britannic Majesty by the Chambers of Commerce or such Trade Associations and other recognized Commercial Associations as may be authorized in this behalf. In Austria these certificates shall be issued by the Police Direction in Vienna, and by the Political Authority of first instance in other places.

Articles imported by commercial travelers as samples shall, in the territories of each of the Contracting Parties, be temporarily admitted free of duty on compliance with the Customs regulations and formalities established to assure their re-exportation or the payment of the prescribed Customs duties if not re-exported within the period allowed by law. But the foregoing privilege shall not extend to articles which, owing to their quantity or value, cannot be considered as samples, or which, owing to their nature, could not be identified upon re-exportation."

As to Article VII, there was a conference in relation to it yesterday afternoon between officials of the Foreign Office, Ministry of Finance and Ministry of Commerce. I am led to believe this morning that the opinion was unanimous that it would be difficult to ascertain the "normal volume of trade" referred to in my above mentioned telegram No. 56, and that these words just quoted would, if adopted, lead to unending difficulty, if not with the United States, then with other countries, by virtue of the application of the most favored nation clause. It is obvious to me that Schüller regards the insertion of the word "restrictions" after "prohibitions" in line 18, page 5, of my despatch No. 1468 of July 11, as mentioned in my telegram under reference as really accomplishing what the American Government seeks to obtain, namely unconditional favored nation treatment in the matter of rations or quotas being established by either of the High Contracting Parties for the importation or exportation of articles restricted or prohibited. Furthermore the insertion of the word "conditions" in lieu of "formalities" in line 21, page 6, is certainly a great improvement. The officials of the Ministry of Finance and the Ministry of Commerce do not view these changes with enthusiasm, but they will not veto their insertion. This language in paragraph 4 of the revised American draft of Article VII is the nub of practically the sole outstanding difficulties in the way of complete agreement upon the phraseology of the treaty, and I venture to ask the Department to review the suggestions in this regard contained in my telegram No. 56 to see whether they do not to all intents and purposes secure what we desire. I am persuaded that Schüller desires to come to some agreement and to find some acceptable formula, but he does very much object to the words "equitable treatment" and "normal volume of trade" as being vague

and lacking the desired precision. My fear is that if we delay too long, the French attitude, to which I am alluding in a despatch of corresponding date, (No. 1555)⁹⁶ may conceivably lead to a postponement, more or less indefinite, and to our prejudice.

I have [etc.]

ALBERT H. WASHBURN

711.632/32: Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, March 17, 1928—5 p. m.

20. Your despatch No. 1575, October 18 last.⁹⁶ Treaty of Friendship, Commerce and Consular Rights. Article seven.

1. Paragraph two. Department desires that you withdraw the words "bases of such duties or charges". This Government desires to have "restrictions" inserted as suggested in your telegram 56 of September 26 last. Also insert "restrictions" in the same position in the last clause of the paragraph.

2. Paragraph four. You are authorized to agree to the omission of "with respect to commodities, formalities and otherwise" and to the omission of "in view of the normal volume of trade in the particular class of goods between the two countries".

3. This Government desires to retain the provision "an equitable share in the allocation of the quantity of restricted goods which may be authorized for importation or exportation". It considers that this provision accords completely with the last paragraph of the protocol concluded at Geneva November 8 last and now signed by twenty-six countries, including the United States and Austria.⁹⁷

4. Revise paragraph four of this Government's draft in accordance with the two preceding paragraphs of this telegram and submit it again to the Austrian negotiators.

5. This Government is unwilling to agree to the Austrian proposed substitute for the third sentence of paragraph four because the Austrian proposal does not make provision directly in regard to the allocation of quantities of goods which is more important than the formalities or conditions to which that proposal relates.

6. At the end of the seventh paragraph, strike out "and" before "vessels" and add after "vessels" the words "and goods".

KELLOGG

⁹⁶ Not printed.

⁹⁷ *Ante*, p. 354.

711.632/37 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, April 12, 1928—6 p. m.

24. Your despatch No. 1554, October 4 last. Article Eleven.

1. This Government intends to discontinue for application in the United States the provision that certificates of identification shall be issued by an authority designated for the purpose such as was contained in Article Eleven of the original American draft. It does not desire to establish official regulatory machinery to issue certificates of identification.

2. Chambers of Commerce in the United States are purely commercial bodies without official relation to the Federal Government. No Department of Federal Government has authority to designate them or other commercial organizations to issue certificates of identification to commercial travelers. Chambers of Commerce issue letters of identification to their members. Not all business firms are members of Chambers of Commerce.

3. With a view to accepting Austrian proposal for application to Austrian commercial travelers coming to the United States and also to meeting conditions in the United States, including provision for firms not members of Chambers of Commerce, but members of other commercial organizations, this Government proposes to substitute for all of the second paragraph of Article Eleven following the words "commercial traveler" the following: "a certificate issued by any of the following in the country of his departure shall be accepted as satisfactory: (a) the authority designated for the purpose; (b) a chamber of commerce; (c) any trade or commercial association recognized for the purpose by the diplomatic representative of the High Contracting Party requiring such certificate."

4. Department understands that no questions are now before it in respect of which you have asked instructions.

KELLOGG

711.632/39 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, April 20, 1928—5 p. m.

[Received 5:18 p. m.]

18. (1) Department's telegram 20, March 17, 5 p. m. Revised draft of article 7 as authorized by Department and as incorporated in red ink modifications in Department's instruction number 662 of March 22nd⁹⁸ finally accepted by Austrian Government.

⁹⁸ Instruction not printed.

(2) Department's telegram 24, April 16 [12], 6 P. M. It would seem to me that the provision for "(b) a Chamber of Commerce" in the Department's proposed substitute would obligate Austrian Government to accept certificates issued by American Chambers of Commerce, though, as the Department states, such chambers are without official relation to the Federal Government. In view of minor role played by Chambers of Commerce in Austria, as explained on page two of my despatch number 1554, October 4th last, I would suggest striking out this sub-clause (b) above quoted though Austrian negotiators will agree to its retention if the Department desires. So far as Austrian Government is concerned, a Chamber of Commerce would come within the meaning of any recognized trade or commercial association provided for in sub-clause (c).

(3) Duration and termination of treaty. Termination of eight years authorized by Department's telegram 15, September 13th, 1927, result of conferences last summer. For reasons explained on page 15 of my despatch 1468, July 11th last, Austrian Government does not desire to commit itself beyond first half of 1935. It would agree to a possible definite date termination at latest July 1st, 1935. Otherwise it desires a term of six years instead of eight, inasmuch as it figures that an exchange of ratifications cannot occur for approximately another year since Senate's approval at earliest cannot be expected until next winter or spring.

(4) If Department can conveniently, speedily instruct on minor points raised in two and three, our task will be finished and the treaty can be signed in May.

WASHBURN

711.632/40 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, April 24, 1928—1 p. m.

[Received 3:30 p. m.]

20. My telegram No. 18, April 20, 5 p. m.

1. Foreign Office informs me that Ministry [of] Commerce upon further consideration greatly prefers that relevant language in second paragraph of article 11 should read: "a certificate issued by the authority designated for the purpose in the country of his departure shall be accepted as satisfactory."

This would eliminate sub-paragraphs (a), (b) and (c) in the Department's telegram 24, April 16 [12], 6 p. m. If this suggestion comes too late, paragraph 2 of my before-mentioned telegram No. 18 stands.

2. Paragraph 3 of my above-mentioned telegram 18. Schüller now states that he will accept term of 7 years which the Department

will probably prefer to a term of 6 years on the definite date July 1st, 1935.

3. Schüller told me last evening he is leaving May 5th for long absence in Paris and Geneva and I very much hope it may be possible to dispose finally of two remaining points here raised before his departure.

WASHBURN

711.632/40 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, April 27, 1928—3 p. m.

25. Your 18, April 20, 5 p. m.; 20, April 24, 1 p. m.

1. Department is gratified at acceptance of Article 7.

2. Concerning Chambers of Commerce, Department has consulted with Department of Commerce which discussed subject informally with Chamber of Commerce of the United States. Text suggested by this Government avoids necessity of obtaining recognition of individual chambers of commerce by Austrian Legation here. Department is grateful for Austrian willingness to agree and requests acceptance.

Referring to Paragraph 1, your 20. As set forth in paragraphs 1 and 2, Department's 24, April 12, 6 p. m., this Government does not desire to establish official machinery, and no authority of the Government can designate commercial organizations, for the purpose of issuing certificates of identification. Items (b) and (c) of paragraph three are therefore regarded as essential.

3. You are authorized to substitute seven years for eight or six if Austrian negotiator prefers.

Department congratulates you upon the result of your work and desires you appropriately to express its appreciation to the Austrian negotiators.

KELLOGG

711.632/42 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, May 9, 1928—10 a. m.

[Received 1:40 p. m.]

23. Department's telegram 25, April 27, 3 p. m.

1. Article 11 revised pursuant to Department's telegram 24, April 26 [12], 6 p. m., and instruction No. 676, April 25th.⁹⁹

⁹⁹ Instruction No. 676 not printed.

2. Schüller expressed finally preference for six-year term because of uncertainty of date of Senate ratification. To this I assented in view of paragraph three, Department's telegram 25.

3. Cabinet council is taking necessary formalities and treaty will shortly be signed probably this month in conformity with instruction No. 573, April 14, 1927.¹

WASHBURN

711.632/42 : Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, June 5, 1928— $\frac{1}{4}$ p. m.

29. Your 23, May 9, 10 a. m. Your despatch No. 1468, July 11, 1927, enclosing text.² If treaty not yet signed, and if agreeable to Austria, you may strike out third paragraph of Article XXV relating to the termination of the sixth paragraph of Article VII. If this suppression is made, strike out also first ten words of first paragraph of Article XXV.

Department has altered policy toward Senate reservation to Article VII of German treaty, and is signing treaty with another country including provision for the national treatment of shipping, obligatory for full term of treaty. Department would prefer to have all treaties submitted to the Senate the next session uniform in this respect.

KELLOGG

711.632/44 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, June 16, 1928—noon.

[Received June 16—10:05 a. m.]

28. Department's telegram 29, June 5, 4 p. m. Changes made as indicated in government printer's final proof. Treaty will be signed Monday, noon, 18th instant.³

WASHBURN

¹ Not printed.

² Enclosure not printed.

³ On June 19 the Minister in Austria cabled the Secretary of State: "Treaty signed today." (File No. 711.632/46.)

Treaty Series No. 838

*Treaty Between the United States of America and Austria, Signed at Vienna, June 19, 1928*⁴

The United States of America and the Republic of Austria, desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a Treaty of Friendship, Commerce and Consular Rights and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America,

Mr. Albert Henry Washburn, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Austria, and

The Federal President of the Republic of Austria,

Monsignore Ignatius Seipel, Doctor of Theology, Federal Chancellor,

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following articles:

ARTICLE I. The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

The nationals of each of the High Contracting Parties within the territories of the other shall be permitted to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes upon the same terms as nationals of the country.

As regards the acquisition, possession, and disposition of immovable property, except as regards the leasing of lands for specified purposes provided for in the foregoing paragraph, the nationals of each of the High Contracting Parties shall enjoy in the territory of the

⁴In English and German; German text not printed. Ratification advised by the Senate, with reservation and understanding, Feb. 11, 1929; ratified by the President, Apr. 29, 1931; ratified by Austria, Jan. 17, 1929; ratifications exchanged at Vienna, May 27, 1931; proclaimed by the President, May 28, 1931.

other, subject to reciprocity, the treatment generally accorded to foreigners by the laws of the place where the property is situated.

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or the right of either of the High Contracting Parties to enact such statutes.

ARTICLE II. With respect to that form of protection granted by National, State or Provincial laws establishing civil liability for injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary benefit, such relatives or heirs or dependents of the injured party, himself a national of either of the High Contracting Parties and within any of the territories of the other, shall regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and privileges as are or may be granted to nationals, and under like conditions.

ARTICLE III. The dwellings, warehouses, manufacturies, shops and other places of business, and all premises thereto appertaining of the nationals of each of the High Contracting Parties in the territories of the other, used for any purposes set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE IV. Where, on the death of any person holding real or other immovable property or interests therein within the territories of one High Contracting Party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other High Contracting Party,

whether resident or non-resident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such national shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and withdraw the proceeds thereof, without restraint or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees, and donees, of whatsoever nationality, whether resident or non-resident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.

ARTICLE V. The nationals of each of the High Contracting Parties in the exercise of the right of freedom of worship, within the territories of the other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct services either within their own houses or within any appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings and practices are not inconsistent with public order or public morals and provided further they conform to all laws and regulations duly established in these territories; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose, subject to the established mortuary and sanitary laws and regulations of the place of burial.

ARTICLE VI. In the event of war between either High Contracting Party and a third State, such Party may draft for compulsory military service nationals of the other having a permanent residence within its territories and who have formally, according to its laws, declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territories of said belligerent Party within sixty days after a declaration of war.

ARTICLE VII. Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to

foreign commerce and navigation. Nothing in this Treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or charges, and no conditions, prohibitions or restrictions, on the importation of any article, the growth, produce or manufacture of the territories of the other Party, from whatever place arriving, than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country; nor shall any such duties, charges, conditions, prohibitions, or restrictions on importations be made effective retroactively.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

In the event of licenses being issued by either of the High Contracting Parties for the importation into or exportation from its territories of articles the importation or exportation of which is restricted or prohibited, the conditions under which such licenses may be obtained shall be publicly announced and clearly stated in such a manner as to enable traders interested to become acquainted with them; the method of licensing shall be as simple and unvarying as possible and applications for licenses shall be dealt with as speedily as possible. Moreover, the conditions under which such licenses are issued by either of the High Contracting Parties for goods imported from or exported to the territories of the other Party shall be as favorable as the conditions under which licenses are issued in respect of any other foreign country. In the event of rations or quotas being established for the importation or exportation of articles restricted or prohibited, each of the High Contracting Parties agrees to grant for the importation from or exportation to the territories of the other Party an equitable share in the allocation of the quantity of restricted goods which may be authorized for importation or exportation. In the application of the provisions of this paragraph no distinction shall be made between direct and indirect shipments. It is agreed, moreover, that in the event either High Contracting Party shall be engaged in war, it may enforce such import or export restrictions as may be required by the national interest.

Any advantage of whatsoever kind which either High Contracting Party may extend, by treaty, law, decree, regulation, practice or

otherwise, to any article, the growth, produce or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article, the growth, produce or manufacture of the other High Contracting Party.

All articles which are or may be legally imported from foreign countries into ports of the United States or are or may be legally exported therefrom in vessels of the United States may likewise be imported into those ports or exported therefrom in Austrian vessels without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Austria or are or may be legally exported therefrom in Austrian vessels may likewise be imported into those ports or exported therefrom in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in Austrian vessels.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals, vessels and goods.

The stipulations of this Article shall not extend to the treatment which either Contracting Party shall accord to purely border traffic within a zone not exceeding ten miles (15 kilometres) wide on either side of its customs frontier, or to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902, or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws.

ARTICLE VIII. The nationals and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment as nationals and merchandise of the country with regard to internal taxes, transit duties, charges in respect to warehousing and other facilities and the amount of drawbacks and bounties.

ARTICLE IX. Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, National, State or Provincial, of either High Contracting Party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other High Contracting Party provided that they pursue no aims within its territories contrary to its laws. They shall enjoy free access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by, the consent of such Party as expressed in its National, State or Provincial laws.

ARTICLE X. The nationals of either High Contracting Party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and ownership and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no conditions less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either High Contracting Party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, national, state or provincial, which are in force or may hereafter be established within the territories of the Party wherein they propose to engage in business. The foregoing stipulations do not apply to the organization of and participation in political associations.

The nationals of either High Contracting Party shall, moreover, enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

ARTICLE XI. Commercial travellers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveller, a certificate issued by any of the following in the country of his departure shall be accepted as satisfactory:

- a) the authority designated for the purpose;
- b) a chamber of commerce;
- c) any trade or commercial association recognized for the purpose by the diplomatic representative of the Contracting Party requiring such certificates.

ARTICLE XII. There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries of the United States, to persons and goods coming from or going through the territories of the other High Contracting Party, except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, and shall be given national treatment as regards charges, facilities, and all other matters.

Goods in transit must be entered at the proper customhouse, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

ARTICLE XIII. Each of the High Contracting Parties agrees to receive from the other, consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the High Contracting Parties shall, after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most favored nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the state which receives them.

The Government of each of the High Contracting Parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing state and under its great seal; and it shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this Treaty.

ARTICLE XIV. Consular officers, nationals of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the state which receives them in civil cases, subject to the proviso, however, that when the officer is a national of the state which appoints him and is engaged in no private occupation for gain, his testimony shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.

ARTICLE XV. Consular officers, including employees in a consulate, nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial, and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from sources within the territories of the State within which they exercise their functions. All consular officers and employees, nationals of the State appointing them, shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for diplomatic or consular purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

ARTICLE XVI. Consular officers may place over the outer door of their respective offices the arms of their State with an appropriate inscription designating the official office. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The consular offices and archives shall at all times be inviolable. They shall under no circumstances be subject to invasion by any authorities of any character within the country where such offices are located. Nor shall the authorities under any pretext make any examination or seizure of papers or other property deposited within a consular office. Consular offices shall not be used as places of asylum. No consular officer shall be required to produce official archives in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancellors, whose official character may have previously been made known to the government of the State where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

ARTICLE XVII. Consular officers, nationals of the State by which they are appointed, may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the government of the country.

ARTICLE XVIII. Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds, and testamentary dispositions of their countrymen, and

also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted, within the territories of the State by which they are appointed, embracing unilateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer, shall be received as evidence in the territories of the contracting parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided, always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

ARTICLE XIX. In case of the death of a national of either High Contracting Party in the territory of the other without having in the territory of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the High Contracting Parties without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

ARTICLE XX. A consular officer of either High Contracting Party may in behalf of his nonresident countrymen collect and receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes, for transmission through channels prescribed by his Government to the proper distributees.

ARTICLE XXI. Each of the High Contracting Parties agrees to permit the entry free of all duty and without examination of any kind, of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their personal or household effects actually in use which accompany such consular officers, their families or suites, or which arrive shortly thereafter, provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.

It is understood, however, that this privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

ARTICLE XXII. Subject to any limitation or exception hereinabove set forth, or hereafter to be agreed upon, the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land, water, and air over which the Parties claim and exercise dominion as sovereign thereof, except the Panama Canal Zone.

ARTICLE XXIII. Nothing in the present Treaty shall be construed to limit or restrict in any way the rights, privileges and advantages accorded to the United States or its nationals or to Austria or its nationals by the Treaty between the United States and Austria establishing friendly relations, concluded on August 24, 1921.

ARTICLE XXIV. The present treaty shall remain in full force for the term of six years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

If within one year before the expiration of the aforesaid period of six years neither High Contracting Party notifies to the other an intention of modifying, by change or omission any of the provisions of any of the articles in this Treaty or of terminating it upon the expiration of the aforesaid period, the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

ARTICLE XXV. The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Vienna as soon as possible.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the same and have affixed their seals hereto.

DONE in duplicate in the English and German languages at Vienna, this 19th day of June 1928.

ALBERT HENRY WASHBURN

[SEAL]

SEIPEL

[SEAL]

[A Senate reservation on February 11, 1929, was accepted by the Governments of the United States and Austria in an exchange of notes printed *infra*.]

Treaty Series No. 838

The American Minister in Austria (Stockton) to the Austrian Vice-Chancellor and Federal Minister for Foreign Affairs (Schober)

VIENNA, January 20, 1931.

EXCELLENCY: Referring to the Treaty of Friendship, Commerce and Consular Rights signed by the United States and Austria on June 19, 1928, I have the honor to inform you that the United States Senate on February 11, 1929, gave its advice and consent to the ratification of the said Treaty in a resolution, as follows:

“Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive B, Seventieth Congress, second session, a treaty of friendship, commerce, and consular rights with Austria, signed at Vienna on June 19, 1928, subject to the following reservation and understanding to be set forth in an exchange of notes between the high contracting parties so as to make it plain that this condition is understood and accepted by each of them:

That the sixth paragraph of Article VII shall remain in force for twelve months from the date of exchange of ratifications, and, if not then terminated on ninety days' previous notice, shall remain in force until either of the high contracting parties shall enact legislation inconsistent therewith, when the same shall automatically lapse at the end of sixty days from such enactment, and on such lapse each high contracting party shall enjoy all the rights which it would have possessed had such paragraph not been embraced in this treaty.”

It will be observed that by this resolution the advice and consent of the Senate to the ratification of the Treaty are given subject to a certain reservation and understanding.

I shall be glad if when bringing the foregoing resolution to the attention of your Government, Your Excellency will state that my Government hopes that the Austrian Government will find acceptable the reservation and understanding which the Senate has made a condition of its advice and consent to the ratification of the Treaty. You may regard this note as sufficient acceptance by the Government of the United States of this reservation and understanding. An acknowledgment of this note on the occasion of the exchange of ratifications, accepting by direction and on behalf of your Government the said reservation and understanding, will be considered as completing the required exchange of notes and the acceptance by both governments of the reservation and understanding.

Accept [etc.]

G. B. STOCKTON

Treaty Series No. 838

The Austrian Vice-Chancellor and Federal Minister for Foreign Affairs (Schober) to the American Minister in Austria (Stockton)

[Translation]

VIENNA, *January 20, 1931.*

MR. MINISTER: In the name and by the direction of the Austrian Federal Government, I have the honor to acknowledge to Your Excellency the receipt of your communication of January 20, 1931, concerning the Treaty of Friendship, Commerce and Consular Rights between Austria and the United States, signed on June 19, 1928, and to advise you as follows:

The Austrian Federal Government has taken note of the resolution of the Senate of the United States, of February 11, 1929, of the following tenor:

[Here follows text of the resolution.]

and declares itself in agreement therewith, subject to ratification thereof.

Please accept [etc.]

SCHOBER

Treaty Series No. 839

*Supplementary Agreement Between the United States of America and Austria, Signed at Vienna, January 20, 1931*⁵

The United States of America and the Republic of Austria, by the undersigned Mr. Gilchrist Baker Stockton, Envoy Extraordinary

⁵ In English and German; German text not printed. Ratification advised by the Senate, Feb. 20, 1931 (legislative day of Feb. 17); ratified by the President, Apr. 29, 1931; ratified by Austria, Mar. 28, 1931; ratifications exchanged at Vienna, May 27, 1931; proclaimed by the President, May 28, 1931.

and Minister Plenipotentiary of the United States of America at Vienna, and Dr. Johann Schober, Vice-Chancellor and Federal Minister for Foreign Affairs of the Republic of Austria, their duly empowered plenipotentiaries, agree, as follows:

Notwithstanding the provisions of the first paragraph of Article XXIV of the Treaty of Friendship, Commerce and Consular Rights, between the United States of America and the Republic of Austria, signed June 19, 1928, to the effect that the said Treaty shall remain in force for the term of six years from the date of the exchange of ratifications, it is agreed that the said Treaty may be terminated on February 11, 1935, or on any date thereafter, by notice given by either high contracting party to the other party one year before the date on which it is desired that such termination shall become effective.

DONE in duplicate, in the English and German languages, at Vienna, this 20th day of January One Thousand Nine Hundred and Thirtyone.

[SEAL]

G. B. STOCKTON

[SEAL]

SCHOBER

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND AUSTRIA, SIGNED AUGUST 16, 1928

711.6312 A/2: Telegram

The Secretary of State to the Minister in Austria (Washburn)

WASHINGTON, March 23, 1928—8 p. m.

23. Department handed Austrian Minister March 23 a draft of a proposed treaty of arbitration between the United States and Austria. The provisions of the draft operate to extend the policy of arbitration enunciated in the Convention which was signed at Washington January 15, 1909,⁶ but is not now in force and are identical in effect with the provisions of the arbitration treaty signed between the United States and France on February 6, 1928,⁷ and with draft arbitration treaties submitted to the Spanish, British, Japanese, Italian, Norwegian, Hungarian, German, Portuguese, Danish and Dutch Governments.⁸

Department also handed to the Minister draft of treaty of similar purport to the so-called Bryan treaties.⁹

The text of these proposed treaties will be forwarded in next pouch.¹⁰

KELLOGG

⁶ *Foreign Relations*, 1909, p. 33.

⁷ See vol. II, pp. 816 ff.

⁸ For correspondence concerning treaties with Denmark, Germany, and Great Britain, see vol. II, pp. 718 ff., pp. 862 ff., and pp. 943 ff.; for that with Italy, Japan, the Netherlands, and Spain, see vol. III, pp. 102 ff., pp. 135 ff., pp. 412 ff., and pp. 879 ff. The treaties with Hungary, Norway, and Portugal were concluded in 1929.

⁹ For the Bryan treaties for the advancement of general peace, see *Foreign Relations*, 1914, index, p. 1130; 1915, index, 1328; and 1916, index, p. 1007.

¹⁰ Drafts not printed.

711.6312 A/6

The Austrian Minister (Prochnik) to the Secretary of State

No. 96/R

WASHINGTON, *May 3, 1928.*

EXCELLENCY: I have the honor to notify Your Excellency that the Federal Government of Austria is willing and ready to conclude with the Government of the United States a treaty of arbitration between the United States of America and Austria as well as a conciliation treaty, and that it fully approves of and consent to the wording of the pertaining drafts as proposed by Your Excellency in your esteemed note of March 23rd,¹¹ directed to this Legation.

The special power to conclude and sign these treaties as well as their German text is on the way and I shall not fail to notify Your Excellency as soon as these papers reach me.

Accept [etc.]

EDGAR PROCHNIK

Treaty Series No. 776

*Arbitration Treaty Between the United States of America and Austria, Signed at Washington, August 16, 1928*¹²

The President of the United States of America and the Federal President of the Republic of Austria

Determined to prevent so far as in their power lies any interruption in the peaceful relations now happily existing between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the arbitration convention which was signed at Washington, January 15, 1909, but is not now in force, and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America, Mr. Frank B. Kellogg, Secretary of State of the United States of America; and

¹¹ Not printed.¹² In English and German; German text not printed. Ratification advised by the Senate, Dec. 18, 1928 (legislative day of Dec. 17); ratified by the President, Jan. 4, 1929; ratified by Austria, Jan. 17, 1929; ratifications exchanged at Washington, Feb. 28, 1929; proclaimed by the President, Feb. 28, 1929.

The Federal President of the Republic of Austria, Mr. Edgar L. G. Prochnik, Envoy Extraordinary and Minister Plenipotentiary to the United States of America,

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Austria in accordance with its constitutional laws.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Austria in accordance with the Covenant of the League of Nations.

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Austria in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange

of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and German languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the sixteenth day of August in the year of our Lord one thousand nine hundred and twenty-eight.

FRANK B. KELLOGG	[SEAL]
EDGAR PROCHNIK	[SEAL]

Treaty Series No. 777

*Conciliation Treaty Between the United States of America and Austria, Signed at Washington, August 16, 1928*¹³

The President of the United States of America and the Federal President of the Republic of Austria, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the United States of America, Mr. Frank B. Kellogg, Secretary of State of the United States of America; and

The Federal President of the Republic of Austria, Mr. Edgar L. G. Prochnik, Envoy Extraordinary and Minister Plenipotentiary to the United States of America,

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I

Any disputes arising between the Government of the United States of America and the Government of Austria, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and the High Contracting Parties agree not to declare war or begin hostilities during such investigation and before the report is submitted.

¹³ In English and German; German text not printed. Ratification advised by the Senate, Dec. 20, 1928; ratified by the President, Jan. 4, 1929; ratified by Austria, Jan. 17, 1929; ratifications exchanged at Washington, Feb. 28, 1929; proclaimed by the President, Feb. 28, 1929.

ARTICLE II

The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by Austria in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously

unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and German languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the sixteenth day of August in the year of our Lord one thousand nine hundred and twenty-eight.

FRANK B. KELLOGG [SEAL]

EDGAR PROCHNIK [SEAL]

**DISINCLINATION OF THE UNITED STATES TO ENTER INTO A TREATY
WITH AUSTRIA GRANTING TO IMMIGRANTS EQUAL RIGHTS WITH
CITIZENS IN MATTERS OF LEGAL PROTECTION**

711.639 Legal Protection/2

*The Austrian Minister (Prochnik) to the Under Secretary of State
(Olds)*

WASHINGTON, July 21, 1927.

MY DEAR MR. UNDER SECRETARY OF STATE: Reverting to our conversation of today, I take the liberty of outlining in the enclosed memorandum the subject which the Austrian Government is anxious to regulate by convention to be negotiated and concluded with the Government of the United States.

You would do me a great favor by having me advised in due course of the attitude of your Government in regard to this question.

Kindly accept [etc.]

EDGAR PROCHNIK

[Enclosure]

MEMORANDUM

At the International Immigration and Emigration Conference in Rome in 1925 [1924]¹⁴ a resolution was adopted advising all those countries which heretofore did not enter into agreements relating to mutual aid in the administration of justice, that they should grant by special conventions to immigrants and their families equal rights with their own citizens in matters of legal protection.

Although the American delegation to said Conference did not join the aboveresferred to resolution the Austrian Government hope that the Government of the United States may be inclined to enter into negotiations with a view of concluding a treaty assuring legal protection and mutual assistance in the interest of administration of justice in general and granting in particular certain exemptions from

¹⁴ For correspondence concerning participation of United States in conference, see *Foreign Relations*, 1923, vol. I, pp. 115 ff.

fees and other dues in cases where the parties in litigation are found to be destitute of means and freeing the citizens of each of the contracting parties from a necessity of furnishing bond when they wish to enter suit in one of the courts of the other.

As to the two latter points (paupers exemption and freedom from bond) the Austrian Government have in mind the relating stipulations in the Convention relating to civil procedure (Convention relative à la procédure civile) which was concluded in the Hague on July 17th, 1905.¹⁵

711.639 Legal Protection/7

The Assistant Secretary of State (Castle) to the Austrian Minister (Prochnik)

WASHINGTON, February 10, 1928.

MY DEAR MR. MINISTER: I beg to refer to your note of July 21, 1927, transmitting a Memorandum concerning the Austrian Government's desire to enter into negotiations with this Government looking toward the conclusion of a treaty assuring legal protection and mutual assistance in certain cases to the citizens of both countries and to enclose a Memorandum setting forth this Government's views in regard to the proposition of your Government in the matter.

I am [etc.]

W. R. CASTLE, JR.

[Enclosure]

MEMORANDUM

The Austrian Government refers to a resolution adopted at the International Immigration and Emigration Conference in Rome in 1925 advising all countries which heretofore did not enter into agreements relating to mutual aid in the administration of justice, that they should grant by special conventions to immigrants and their families equal rights with their own citizens in matters of legal protection.

It is presumed that reference is had to the following resolution adopted at the International Immigration and Emigration Conference at Rome in 1924 (and not 1925, as stated in the Memorandum):

"LEGAL AND JUDICIAL ASSISTANCE

"The Conference,

"considering that it is advisable to facilitate legal assistance for emigrants and their families,

"expresses the Wish:

"(a) that the States which have not yet concluded conventions on this subject, and particularly emigration and immigration States,

¹⁵ *British and Foreign State Papers*, vol. xcix, p. 990.

should establish, by means of agreements based on reciprocity, equality of treatment with nationals as regards access to judicial assistance;

“(b) that when consular conventions are being negotiated, the States concerned should consider the possibility of authorising consuls, in the interests of their nationals who may be absent, to approach the administrative and judicial authorities, in order that their nationals may avoid prescription or the forfeiture of the rights which they possess under the laws for social insurance. The steps taken by the consuls must be confirmed by the parties concerned in the forms prescribed by the laws of the country of residence;

“(c) that each Government should encourage the formation and facilitate the work of private associations for legal assistance to emigrants.”

Reference is also made to Article XVII of the Convention for Civil Procedure of July 17, 1905,¹⁶ which provides as follows:

“Aucune caution ni dépôt, sous quelque dénomination que ce soit, ne peut être imposé, à raison soit de leur qualité d'étrangers, soit du défaut de domicile ou de résidence dans le pays, aux nationaux d'un des États Contractants, ayant leur domicile dans l'un de ces États, qui seront demandeurs ou intervenants devant les tribunaux d'un autre de ces États.

“La même règle s'applique au versement qui serait exigé des demandeurs ou intervenants pour garantir les frais judiciaires.

“Les Conventions par lesquelles des États Contractants auraient stipulé pour leurs ressortissants la dispense de la caution *judicatum solvi* ou du versement des frais judiciaires sans condition de domicile continueront à s'appliquer.”¹⁷

In this relation it may be observed that in practically all jurisdictions in the United States it is customary to require a plaintiff who is a non-resident of the State in which he brings suit to give security for costs, but that no discrimination is made between citizens and aliens since the question whether a cautionary bond should be required from a plaintiff is determined solely by the residence of such plaintiff in the State regardless of his nationality. Except in respect of actions in the Federal Courts the benefit of the privilege of suing *in forma pauperis* likewise depends in the most jurisdictions on residence and is accorded to alien residents as well as to nationals.

¹⁶ *British and Foreign State Papers*, vol. xcix, pp. 990, 995.

¹⁷ Translation:

“No cautionary bond nor deposit, under any denomination whatever, may be imposed, by reason either of their status as aliens or of a defect of domicile or of residence in the country, on nationals of one of the Contracting States, having their domicile in one of these States, who shall be plaintiffs or second parties before the courts of another of these States.

“The same rule applies to payment which would be required of plaintiffs or second parties in order to guarantee the judicial costs.

“The Conventions by which the Contracting States have contracted for their nationals exemption from the cautionary bond *judicatum solvi* or the payment of judicial costs without a proviso of domicile shall continue to apply.”

Should the United States bind itself by a treaty provision similar to that of Article XVII of July 17, 1905, aliens in this country would be placed on a more favorable basis with regard to the deposit of cautionary bonds than nationals since the test of residence in the State would not be applied to the case of aliens as it is in the case of nationals.

This Government has not heretofore concluded treaties relating specifically to the granting of legal assistance to aliens. Paragraph 1 of the Protocol of the Treaty of Friendship, Commerce and Consular Rights concluded with Esthonia on December 23, 1925, is the only specific provision in regard to this matter which has been included in a treaty of the United States. Articles I, II and XXV of a similar treaty concluded with Germany in 1923, which also are included in other treaties may be of interest. Copies of the above mentioned treaties are enclosed.¹⁸

The conditions under which aliens might sue in the courts of the several States of this country have generally been regarded as matters to be determined in accordance with the laws of the several States. This Government has, however, included in treaties negotiated with other Governments provisions guaranteeing to nationals of the respective countries freedom of access to the courts on conforming to the local laws and the most constant protection and security for their persons and their property and stipulating that property of nationals of the respective countries shall not be taken without due process of law.

Generally speaking, it may be stated that even in the absence of treaty provisions aliens in this country are placed upon an equality with American citizens in the matter of legal remedies. In view of this fact and since questions of procedure in the courts of the different States of this country are determined by the laws of such States, this Government does not consider that there are sufficient grounds which would warrant it in negotiating a treaty of the nature suggested in the Memorandum of the Austrian Government, infringing as it does upon matters normally falling within the jurisdiction of the several States.

As showing the extent to which this Government has concluded treaty provisions pertaining to the right of aliens to pursue legal remedies, attention is invited to Paragraph 3 and 4 of Article I of the Treaty between the United States and Germany of Friendship, Commerce and Consular Rights, concluded on December 8, 1923. Attention is also invited to Article II of this Treaty regarding the rights of relatives or heirs of nationals of the respective countries under laws

¹⁸ *Foreign Relations*, 1925, vol. II, p. 70; *ibid.*, 1923, vol. II, pp. 29, 30, 43.

establishing civil liability for injuries or for death; and to Article XXV of the same treaty conferring upon consular officers the right to receive on behalf of their non-resident countrymen distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws, or other like statutes. Such provisions have already been agreed upon for inclusion in the Treaty of Friendship, Commerce and Consular Rights between the United States and Austria, the negotiation of which is nearing conclusion at Vienna.¹⁹

WASHINGTON, *February 10, 1928.*

¹⁹ Signed June 19, 1928; see pp. 924 ff.

BOLIVIA

GOOD OFFICES OF THE DEPARTMENT OF STATE IN BEHALF OF THE STANDARD OIL COMPANY IN ESTABLISHING RADIO STATION AT YACUIBA

824.74 Standard Oil Co./1 : Telegram

The Acting Secretary of State to the Minister in Bolivia (Kaufman)

WASHINGTON, June 12, 1928—2 p. m.

12. Representative of Standard Oil Company¹ states that that Company is requesting permission from the Bolivian Government to establish a radio station at Yacuiba for communication with its home office in New York, and has asked for the assignment of short wave channels. The United States Federal Radio Commission has already assigned short wave channels for this circuit. You may informally advise the Minister for Foreign Affairs that the Department would be glad to see this additional channel of communication established between Bolivia and the United States, feeling that it would serve to draw the two nations closer together and strengthen their mutual interests. This of course with the understanding that the privileges granted to the Standard Oil Company should not infringe upon the rights of any other American interests.

OLDS

824.74 Standard Oil Co./4 : Telegram

The Minister in Bolivia (Kaufman) to the Secretary of State

LA PAZ, August 24, 1928—noon.

[Received 12:10 p. m.]

38. Department's telegram No. 12, June 13th [12th]. Executive decree authorizing Standard Oil Company of Bolivia to construct wireless telegraph station at Yacuiba signed on August 23rd.

KAUFMAN

BOUNDARY DISPUTE WITH PARAGUAY

(See pages 672 ff.)

¹ Standard Oil Company of New Jersey.

BRAZIL

DISAPPROVAL BY THE DEPARTMENT OF STATE OF PROPOSED RE-FUNDING IN THE AMERICAN MARKET OF STATE OF SÃO PAULO LOAN OF 1926¹

832.51 Sa 6/93

Mr. Andrew Ten Eyck, for E. H. Rollins & Sons, New York, to the Secretary of State

[WASHINGTON,] *February 2, 1928.*

MEMORANDUM FOR THE SECRETARY OF STATE:

In accordance with the suggestion of the Secretary of State at a conference this morning I reduce to writing the following inquiry on behalf of the investment bond house of E. H. Rollins & Sons of 44 Wall Street, New York City:

In 1926 the State of Sao Paulo, Brazil, brought out a £5,000,000, 7½% loan in London. This loan was brought out through the Sao Paulo Coffee Institute by Lazard Brothers, and was specifically secured by a first charge and receipt of transport tax of one gold milreis on each bag of coffee, and by all the assets of the Institute above mentioned. This issue was brought to the attention of E. H. Rollins & Sons and discussed with the Secretary of Commerce, Mr. Hoover, but was not offered in this market due to his opposition to the nature of the business, involving as it seemed apparent to him, the financing of a monopoly, which might have had the tendency of raising the price of coffee to the American consumer.

This loan has been very successful in London and the bonds are now selling above par. E. H. Rollins & Sons would like to consider the possibility of calling the present issue in London and bringing out a dollar issue in the American market, provided of course the situation would be such that the government would not object to the financing. The call and refunding operation would not involve any new money, nor would it change the actual existing situation as far as coffee is concerned. At the present time it would be possible for E. H. Rollins & Sons to do this business at probably a more favorable rate than that current in London, thereby showing a distinct advantage to the State of Sao Paulo.

The Secretary of Commerce has advised the undersigned to present the matter to the Secretary of State for appropriate consideration.

¹ For previous disapproval by the Department of State of the proposed flotation of this loan by American bankers, see *Foreign Relations*, 1925, vol. I, pp. 533 ff.

and conference with the departments of the government concerned, because of recent developments with regard to American financing operations in Brazil to the end that the matter may be presented to the President. It is respectfully requested that specific approval be given to the call and refunding operation above set forth.

ANDREW TEN EYCK

832.51 Sa 6/98

The Secretary of State to Mr. Andrew Ten Eyck, for E. H. Rollins & Sons, New York

WASHINGTON, *February 16, 1928.*

SIR: I beg to refer to your memorandum of February 2, 1928, in regard to possible refunding in the American market of the loan of the State of Sao Paulo, Brazil, which was brought out in London in 1926 through the Sao Paulo Coffee Institute.

After careful consideration, the conclusion has been reached that there is no change in the situation which would warrant modification at this time of the position taken by this Government prior to the flotation of the loan of 1926, namely, that the issue in the American market of a loan in connection with coffee valorization would not be viewed with favor.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.,
Assistant Secretary

REFUSAL OF THE DEPARTMENT OF STATE TO DISAPPROVE LOAN TO STATE OF SÃO PAULO BECAUSE OF CLAIM OF AMERICAN FIRM AGAINST STATE

832.51 Sa 6/101 : Telegram

The Acting Secretary of State to the Consul at São Paulo (Cameron)

WASHINGTON, *March 29, 1928—5 p. m.*

The Department has been approached by representatives of Baker, Kellogg and Company and Ulen and Company with regard to the failure of the Government of São Paulo to deliver an issue of vicinal bonds to the Itararé-Fartura Railroad which were assigned by the latter to the American interests mentioned as security for an advance of about \$380,000 made to the railroad company. It is alleged that as security for the bonds not yet delivered the Government has taken a mortgage on the railroad. American interests consider it unjust for the Government to refuse delivery of the bonds on the ground of the Company's failure to meet certain

financial requirements when such failure is caused by the Government's refusal to deliver the bonds.

The American interests have not exhausted their legal remedies, or even taken the case into court, feeling that such procedure would entail great delay and expense which should not be necessary under the circumstances. They have asked the Department to use its informal good offices in an endeavor to persuade the Government of São Paulo to settle the case.

Consult with Mr. Ralph D. Kellogg, now at São Paulo, and if you see no objection discuss the matter informally with the appropriate authorities, expressing the hope that a solution mutually satisfactory to the Government and the American interests concerned may be reached in the near future. Endeavor to ascertain definitely the reason for the state's refusal to deliver the bonds. Report briefly by cable and fully by mail.

OLDS

832.51 Sa 6/102 : Telegram

The Consul at São Paulo (Cameron) to the Secretary of State

SÃO PAULO, April 2, 1928—3 p. m.

[Received 3:50 p. m.]

Department's telegram March 29, 5 p. m. I have consulted with Kellogg and Whitson, latter being the representative of Ulen and Company. On March 31st I called on the State Secretary of Fazenda and discussed the matter informally expressing the hope suggested in Department's telegram March 29, 5 p. m. Secretary stated as follows: bonds have not been issued because the State has been judicially notified by another creditor that bonds should be delivered to him. The matter is now being studied by State's legal adviser. Such creditor is Lafayette Siqueira and Company, contractor, who constructed portion of Itararé-Fartura line. About a week ago State authorities answered a telegram from the Foreign Office at Rio de Janeiro regarding the same matter. State Government has had no dealings with Baker, Kellogg and Company or with Ulen and Company, and State government believes claim of those companies to be solely against Itararé-Fartura Railway Company. Latter company has numerous bills protested and may soon be forced into bankruptcy. For partial explanation of this case see my report of March 23rd entitled "Aid to [Neighborhood] Railways"³ in the mail pouch scheduled to arrive at New York on April 10th. Full report by mail pouch scheduled to arrive at New York on April 24th.

CAMERON

³ Not printed.

832.51 Sa 6/111 : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

[Paraphrase]

WASHINGTON, May 3, 1928—5 p. m.

15. With reference to report No. 105, April 7, 1928, from Consul Cameron ⁴ regarding vicinal bonds of the Itararé-Fartura Railway, the bankers are convinced that the State of São Paulo is under legal obligations to carry out its agreement with them. The bankers state, however, that they will not take the case into court, since they realize that years will be required to get a final decision. They say that even if such a decision were to be in their favor—and they consider this certain—an appropriation by Congress would still be necessary. The Department has been informed by the bankers that if the State of São Paulo will not agree to make a settlement which will be satisfactory to the American interests concerned, influence will be brought to bear by these American interests on bankers' associations both in the United States and in Europe to prevent the flotation of future loans by the State of São Paulo, on the ground that the State of São Paulo does not live up to its financial obligations.

With the information at its disposal, the Department is not prepared to pass on the merits of the controversy between the State of São Paulo and the bankers; nevertheless, because of the serious consequences which may result if this matter is not settled in a way which will be mutually satisfactory to both parties, it is the belief of the Department that you would be justified in discussing this matter informally with President Washington Luis, whose influence with the State Government of São Paulo, according to the bankers, is considerable. You will express the hope that for the best interests of all concerned a satisfactory settlement may be reached. The bankers are willing for you to use any information transmitted herewith with regard to their intentions and views as you see fit, and in such a manner as you may think most likely to produce a favorable effect. You will take care not to appear to be making any threats on behalf of the bankers.

KELLOGG

832.51 Sa 6/118

Speyer & Co. to the Assistant Secretary of State (Castle)

NEW YORK, June 19, 1928.

[Received June 20.]

SIR: Referring to the Department's request that American bankers furnish information regarding loans that they may be negotiat-

⁴Not printed.

ing with foreign governments,⁵ we beg to submit the following concerning a loan to the State of San Paulo, Brazil.

The State of San Paulo proposes to issue about \$25,000,000 principal amount of its Forty-Year 6% Sinking Fund Gold Bonds, being part of an international loan to be known as either the "External Refunding Loan of 1928" or the "External Loan of 1928" of an authorized amount of about £10,000,000. We are negotiating with London bankers for the above \$25,000,000 Bonds, being the American *tranche*.

Of the remaining bonds constituting this loan, about £5,000,000 principal amount are being negotiated in London by Messrs. J. Henry Schröder & Co., Baring Brothers & Co., Ltd. and N. M. Rothschild & Sons.

A sinking fund will be provided sufficient to retire all of the bonds at or before maturity. The bonds will be the direct and unconditional obligation of the State of San Paulo, and will be payable in Pounds Sterling and in United States gold, free from all Brazilian taxes. The State will covenant that if in the future it shall guarantee any loan, or issue a loan secured by a lien on any of its assets, it would give first to this loan adequate security approved by the Fiscal Agents.

We are advised that approximately \$15,350,000 of the proceeds of this loan will be used to pay by July 1, 1929 the outstanding \$7,920,000 Dollar Bonds and fl.14,240,000 Guilder Bonds of 8% External Loan of 1921, about \$7,500,000 for additions, betterments and extensions to the water supply and sewerage systems of the City of San Paulo, and the balance of the proceeds for the extension of the Sorocabana Railway from Mayrink to the port of Santos.

We trust that the Department of State will find no objection to the flotation in this country of the American part of the above loan, and shall be obliged if you will so advise us at your earliest convenience.

Respectfully yours,

SPEYER & Co.

832.51 Sa 6/121

The Secretary of State to Speyer & Co.

WASHINGTON, June 21, 1928.

SIRS: I beg to acknowledge the receipt of your letter of June 19, 1928, regarding your interest in a loan of about \$25,000,000 to the State of São Paulo, Brazil.

⁵ See *Foreign Relations*, 1922, vol. 1, pp. 556 ff.

In reply to your request for an expression of this Department's views, I beg to state that, in the light of the information before it, the Department of State offers no objection to this financing.

You of course appreciate that, as pointed out in the Department's announcement of March 3, 1922,⁶ the Department of State does not pass upon the merits of foreign loans as business propositions nor assume any responsibility in connection with such transactions, also that no reference to the attitude of this Government should be made in any prospectus or otherwise.

The Department would be glad to learn in what manner the proposed public works and railroad construction will be carried out. In this connection, the Department hopes that American firms may be afforded the freest opportunity to compete for such work on equal terms, and assumes that the proposed contracts and the procedure in connection therewith will not in any way interfere with such free opportunity.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

Assistant Secretary

832.51 Sa 6/123 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

RIO DE JANEIRO, June 23, 1928—3 p. m.

[Received 4:30 p. m.]

26. Department's 22, June 22, 4 p. m.⁷ Although I have twice visited São Paulo in relation to the Itararé-Fartura Railway matter it is difficult to secure reliable information for the interested firm on account of the antagonism which their peremptory methods have developed among the members of the São Paulo Government described in Consul Cameron's despatches,⁷ the accuracy of which I confirm. Further antagonism has been developed by the statement in the bankruptcy proceedings that the bankruptcy has been wholly caused by the failure of the State Government to fulfill its obligations. The illness of President Washington Luis has prevented conferences with him but I should hesitate to hold them until I was persuaded that the action of the State Government is unjustified.

MORGAN

⁶ *Foreign Relations*, 1922, vol. I, p. 557.

⁷ Not printed.

832.51 Sa 6/126 : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

WASHINGTON, June 29, 1928—noon.

23. Your 26, June 23, 3 P. M., last clause. The instruction of May 3, 5 P. M., you will remember stated that the Department is not prepared to pass on the merits of the controversy. Neither does it expect you to decide whether the action of the state government is justified. However, the Department believes that as soon as the President's health permits you should, very informally, of course, take the action suggested in the last paragraph of the instruction cited.

KELLOGG

832.51 Sa 6/127

Speyer & Co. to the Assistant Secretary of State (White)

NEW YORK, July 10, 1928.

[Received July 11.]

SIR: Referring to our letters of June 19th and June 22nd^s regarding the negotiation for the above loan, we now beg to advise you that the plan of refunding the American and Dutch portions of the 8% External Loan of 1921 has been abandoned, and that the total authorized amount of the loan has been reduced to an American portion of \$15,000,000 (instead of \$25,000,000, as stated in the above letters) and an English portion of £3,500,000 Sterling Bonds.

The proceeds of the loan will be used for additions, betterments and extensions to the water supply and sewerage systems of the City of San Paulo, and for extension of the Sorocabana Railway.

In reply to the last paragraph of your letter of June 21st, we are informed that the railroad earthwork contracts have all been granted to private parties and that the rails will be laid by the State. With regard to the waterworks construction, the proceeds of the loan will be used only to complete construction already under contract.

We are [etc.]

SPEYER & Co.

832.51 Sa 6/128

Field, Glore & Co., International Acceptance Bank, Baker, Kellogg & Co., and Ulen & Company to the Secretary of State

NEW YORK, July 17, 1928.

[Received July 20.]

DEAR SIR: The undersigned desires to call the attention of the State Department to a statement of facts submitted to the Depart-

^s Latter not printed.

ment by the law firm of Curtis, Mallet-Prevost, Colt & Mosle on our behalf under date of March 22nd, 1928,⁹ regarding our claim against the State of Sao Paulo, Brazil. This statement of facts sets forth very clearly the obligation upon the part of the State in an amount of approximately \$380,000 which obligation the State has definitely defaulted in fulfilling.

Our attention has lately been called to the report that this same State of Sao Paulo contemplates the flotation on the American market in the immediate future of upwards of \$15,000,000 of its bonds which bonds will be sold to a wide list of American investors.

It is our feeling that the facts as stated in the memorandum submitted by us should be given full consideration in connection with the reported new loan and we should appreciate it if the Department will take full cognizance of said memorandum in determining its attitude toward any such proposed loan.

We take the liberty of inquiring whether under these circumstances the Department would give its approval to a loan to a borrower known to be in default as indicated in the above mentioned memorandum. We wish furthermore to point out that we are in no way interested in the contemplated loan to the State of Sao Paulo and are in no sense competitors of the bankers who are negotiating it.

Respectfully yours,

FIELD, GLORE & Co., INC.

By M. S. HARRISON, V.P.

INTERNATIONAL ACCEPTANCE BANK, INC.

By JAMES WARBURG, V.P.

BAKER, KELLOGG & Co., INC.

By J. C. LUITWEILER

120 Broadway,

ULEN & COMPANY

By C. M. BOUNELL

832.51 Sa 6/136

The Ambassador in Brazil (Morgan) to the Secretary of State

No. 3039

RIO DE JANEIRO, July 20, 1928.

[Received August 11.]

SIR: Referring to the Department's telegraphic instructions Nos. 15, of May 3, 5 P. M., and No. 23, of June 29, 12 N., I have the honor to report that the instruction contained in the last paragraph of the Department's instruction of May 3 has been complied with

⁹ Not printed.

and that the President of the Republic will endeavor to interest the President of São Paulo in affording some assistance to the American groups concerned with the Itararé-Fartura Railway.

How successful his representations may prove I cannot prophesy because Dr. Julio Prestes is seriously offended by the character of the telegram which the interested bankers addressed to him on March 1 last, as well as by the statement that

“We request Your Excellency’s immediate reply since we desire to avoid the necessity of bringing the matter to the attention of our State Department at Washington”

a copy of the text of which telegram formed schedule N^o. 4 of the exposition which Messrs. Curtis, Mallet-Prevost, Colt & Mosle submitted to the Department under date of March 22.¹⁰

President Prestes considers the quoted words to be a threat which no group of foreign bankers has the right to address to a self-respecting foreign government, and that after their wide international experience in dealing with foreign governments it is surprising that the bankers interested in the railway should have employed them.

In his recent annual message to the State Legislature, President Prestes has referred to the relations of the State Government with the Itararé-Fartura Railway and the text of these references, both in English and Portuguese, I have the honor to enclose.¹⁰ They elucidate the viewpoint of the State Government, and may assist the Department in adjusting its relations to the matter in hand.

I have [etc.]

EDWIN V. MORGAN

832. 51 Sa 6/128

The Secretary of State to Field, Glore & Co., International Acceptance Bank, Baker, Kellogg & Co., and Ulen & Company

WASHINGTON, July 28, 1928.

SIRS: I beg to acknowledge the receipt of your letter of July 17, 1928, regarding your claim against the State of São Paulo, Brazil.

As stated in a telephonic conversation of July 20 with Mr. F. Abbott Goodhue, President of the International Acceptance Bank, Incorporated, regarding the subject of the letter, the Department can establish no connection between your grievance against the State of São Paulo and the flotation of a loan of that State. With reference to your statement that the State is known to be in default, it was also pointed out that the Department has never undertaken to

¹⁰ Not printed.

pass on the merits of your complaint against the State, but, at your request, has merely used its good offices to bring about a settlement of the matter satisfactory to both parties.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

Assistant Secretary

**ASSISTANCE OF THE DEPARTMENT OF STATE IN PROTECTING
PATENT RIGHTS OF THE SYMINGTON COMPANY IN BRAZIL FROM
INFRINGEMENT BY BELGIAN FIRM**

832.542 Symington Co./3

The Secretary of State to the Chargé in Belgium (Reed)

No. 92

WASHINGTON, February 29, 1928.

SIR: The Department transmits herewith copies of a letter dated February 15, 1928, and its enclosures from Mr. Ernest F. Mechlin, General Counsel for The Symington Company,¹² manufacturers of railway equipment in regard to the alleged infringement by Societe Anonyme des Ateliers de Construction de Familleureux of Familleureux, Belgium, of the patents covering equipment designed, patented and manufactured by The Symington Company.

It will be observed from the enclosed letter that the Symington equipment mentioned was adopted and made standard equipment by the Paulista Railroad and the Central Railroad of Brazil and that negotiations are now in progress looking to the adoption of the equipment by other Brazilian railroads; that the Central Railroad of Brazil ordered from the Societe Anonyme des Ateliers de Construction de Familleureux 150 freight cars specifying that they be equipped with the Symington equipment designated:

"1. Symington Farlow draft attachments with Symington tandem spring draft gears in accordance with railway drawing No. 1512.

"2. Symington journal boxes and Symington patented malleable iron torsion spring lid with latest improved split pin";

that the Societe Anonyme des Ateliers de Construction de Familleureux represented to the Brazilian railroad officials that it would have the Symington equipment manufactured in Belgium under a license from The Symington Company; that this representation was false, no such license having been issued by The Symington Company or requested by the Societe Anonyme des Ateliers de Construction de Familleureux; that it is understood that the equipment is now in process of manufacture; that as a result of this piracy and false representation, The Symington Company's interests will be seriously injured unless measures are taken to prevent the unauthor-

¹² Not printed.

ized manufacture in Belgium of the equipment under discussion until recognition of the rights of The Symington Company and the payment to them of adequate compensation is assumed.

The Societe Anonyme des Ateliers de Construction de Familleureux is specifically representing that the cars being furnished for the Central Railroad of Brazil will be equipped with the Symington equipment called for in the specifications, whereas the equipment actually about to be furnished are unauthorized imitations of the genuine Symington equipment and the Belgian company is therefore not only pirating the patent right of The Symington Company and falsely representing that the equipment is being manufactured under a license issued by The Symington Company, but they are using the trade names of The Symington Company without the authority of that company and to its detriment.

The action of the Societe Anonyme des Ateliers de Construction de Familleureux seems clearly to contravene the provisions herein-after quoted of the Convention for the Protection of Industrial Property signed at Washington on June 2, 1911, to which the United States and Belgium are parties.¹³ Article 8 of the Convention reads as follows:

"Trade names shall be protected in all the countries of the Union without the obligation of filing, whether it be a part or not of a trademark."

Article 10½ contains the following provisions:

"All the contracting countries agree to assure to the members of the Union an effective protection against unfair competition."

In view of the reprehensible actions of the Societe Anonyme des Ateliers de Construction de Familleureux and the treaty violations involved therein and the loss resulting therefrom to The Symington Company, you will please bring this matter to the attention of the Foreign Office and inquire whether it will not be possible for the Belgian authorities to take action with a view to preventing the violation by the Belgian company of the treaty rights of these citizens of the United States.

I am [etc.]

For the Secretary of State:

ROBERT E. OLDS

832.542 Symington Co./4

The Secretary of State to the Ambassador in Brazil (Morgan)

No. 1342

WASHINGTON, *March 9, 1928.*

SIR: The Department transmits herewith copies of a letter dated February 15, 1928, and its enclosures from Mr. Ernest F. Mechlin,

¹³ *Foreign Relations*, 1913, p. 1363.

General Counsel for The Symington Company,¹⁴ manufacturers of railway equipment, in regard to the alleged infringement by the Societe Anonyme des Ateliers de Construction de Familleureux of Familleureux, Belgium, of the patents covering equipment designed and manufactured by The Symington Company and patented under the laws of Brazil.

It will be observed from the enclosed letter that the Symington equipment mentioned was adopted and made standard by the Paulista Railroad and the Central Railroad of Brazil and that negotiations are now in progress looking to the adoption of the equipment by other Brazilian railroads; that the Central Railroad of Brazil ordered from the Societe Anonyme des Ateliers de Construction de Familleureux 150 freight cars specifying that they be equipped with the Symington equipment designated as:

"1. Symington Farlow draft attachments with Symington tandem spring draft gears in accordance with Railway drawing No. 1512.

"2. Symington journal boxes and Symington patented malleable iron torsion spring lid with latest improved split pin";

that the Societe Anonyme des Ateliers de Construction de Familleureux represented to the Brazilian railroad officials that it would have the Symington equipment manufactured in Belgium under a license from The Symington Company; that this representation was false, no such license having been issued by The Symington Company or requested by the Societe Anonyme des Ateliers de Construction de Familleureux; that it is understood that the equipment is now in process of manufacture; that as a result of this piracy and false representation The Symington Company's interests will be seriously injured unless measures are taken to insure the protection to which they are entitled under the patent laws of Brazil and under the provisions of the Convention Relating to Inventions, Patents, Designs and Industrial Models signed at Buenos Aires on August 29 [20], 1910,¹⁵ to which the United States and Brazil are parties.

In ordinary circumstances The Symington Company could enforce its rights by judicial proceedings in Brazil designed to prevent the entry into that country of railway cars bearing the pirated devices of the patentee but the Department is advised that such action would be ineffective in this case because the Brazilian Government is financially interested in the Central Railroad of Brazil and that accordingly no embargo may be placed on the shipment of cars containing the infringing equipment.

¹⁴ Not printed.

¹⁵ Malloy, *Treaties*, 910-1923, vol. III, p. 2930; see also *Foreign Relations*, 1910, pp. 21-22, 38-41, 49-52.

In view of the gross violation of the rights of The Symington Company by the action of the Societe Anonyme des Ateliers de Construction de Familleureux and the inadequacy of any remedy by judicial proceedings by the Company, you are requested to bring this matter urgently to the attention of the Foreign Office and to request that action be taken by the appropriate Brazilian authorities with a view to preventing the entry into Brazil of the shipment in question until the rights of The Symington Company under the laws of Brazil and the Treaty of 1910 above mentioned have been adequately recognized and due compensation paid them by the infringers of the patents mentioned.

I am [etc.]

For the Secretary of State:

ROBERT E. OLDS

832.542 Symington Co./6

The General Counsel of The Symington Company (Mechlin) to the Secretary of State

WASHINGTON, March 22, 1928.

SIR: I wish to advise that the Brazilian situation, brought to your attention by my letter of February 28th, 1928,¹⁶ has been adjusted to our satisfaction in the following manner:

Familleureux, the Belgian manufacturer, has recognized the validity of the Brazilian patents owned by the Symington Company and has agreed to pay us a royalty for the right to manufacture and import into Brazil Farlow tandem draft gear attachments and journal box lids.

Permit me to express to you and to the Department the deep appreciation of the officials of the Symington Company for your kind offices in our behalf, without which we would not have been able to carry the matter to its present satisfactory conclusion.

Yours respectfully,

ERNEST F. MECHLIN

832.542 Symington Co./9

The Ambassador in Brazil (Morgan) to the Secretary of State

No. 2978

RIO DE JANEIRO, March 24, 1928.

[Received April 13.]

SIR: Replying to the Department's instruction No. 1342, of March 9 last (File No. 832.542-Symington Co./1[4]), relating to the affairs

¹⁶ Not printed.

of The Symington Company of Rochester, New York, manufacturers of railroad equipment, reported by Mr. Ernest F. Mechlin, McGill Building, Washington, D. C., to the Department, I have the honor to state that the claim of the said company for piracy of patent against the Societe Anonyme des Ateliers de Construction de Familleureux, of Familleureux, Belgium, has been satisfactorily settled and that the said company has made compensation through the payment of an adequate royalty.

The representatives of the company in Rio de Janeiro, Messrs. Norton, Megaw and Company, have acknowledged that this satisfactory result was due to the efforts of our able Commercial Attaché, Mr. Carlton Jackson, who handled the matter (in cooperation with this office) under instructions from his Department.

I have [etc.]

EDWIN V. MORGAN

832.542 Symington Co./8

*The Secretary of State to the Ambassador in Brazil (Morgan)*¹⁷

No. 1355

WASHINGTON, April 5, 1928.

SIR: Referring to the Department's instruction No. 1342 of March 9, 1928, in regard to the attempted infringement by the Societe Anonyme des Ateliers de Construction de Familleureux of Familleureux, Belgium, of the patents covering railway equipment designed and manufactured by The Symington Company and patented under the laws of Brazil, the Department informs you that it has received a letter from the General Counsel of The Symington Company, dated March 22, 1928, stating that the Belgium Company mentioned has recognized the validity of the Brazilian patents owned by The Symington Company and has agreed to pay that Company a royalty for the right to manufacture the equipment and to import it into Brazil.

Accordingly no further action in the matter need be taken by the Embassy.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

832.542 Symington Co./10

The Ambassador in Belgium (Gibson) to the Secretary of State

No. 234

BRUSSELS, April 23, 1928.

[Received May 5.]

SIR: I have the honor to refer to the Department's instruction No. 92 of February 29, 1928 (File No. 832.542-Symington Co./1 [3])

¹⁷The same, *mutatis mutandis*, on the same date to the Ambassador in Belgium as instruction No. 101.

and at the same time to acknowledge the receipt of instruction No. 101 of April 5, 1928 (File No. 832,542-Symington/6 [7]),¹⁸ both relating to the attempted infringement by the Société Anonyme des Ateliers de Construction de Familleureux of Familleureux, Belgium, of the patents covering equipment designed, manufactured and patented by the Symington Company.

By note of March 20, 1928, the Embassy brought this matter to the attention of the Foreign Office, pursuant to the Department's instruction first mentioned above, and asked whether it might not be possible for the Belgian authorities to take action with a view to preventing the threatened violation by the Belgian Company of the treaty rights of the Symington Company as citizens of the United States.

The Department's second instruction was received April 17, 1928, and a note was addressed to the Foreign Office the same day, in which attention was invited to the satisfactory settlement of the matter between the two companies concerned.

I have now received under date of April 20, 1928, a reply from the Foreign Office to my first note on the subject. This reply was apparently drafted before the receipt of my second note, but as it contains information which may be of value in the event that similar cases occur in the future, I am enclosing a copy and translation of it for the records of the Department.

In acknowledging this note I have, of course, confined myself to an expression of thanks for the information furnished the Embassy and of appreciation of the Ministry's interposition with the Familleureux Company which appears to have borne satisfactory results.

I have [etc.]

HUGH GIBSON

[Enclosure—Translation]

The Belgian Ministry of Foreign Affairs to the American Embassy

Direction B

Section I. B. No. 441/1480

BRUSSELS, April 20, 1928.

The Ministry of Foreign Affairs has the honor to acknowledge the receipt of note No. 116 of March 20, 1928, by which the Embassy of the United States at Brussels requested its intervention in favor of the Symington Company who makes complaint of unfair competition and misuse of its trade name on the part of the Société Anonyme des Ateliers de Construction de Familleureux.

In order to meet the stipulations of articles 8 and 10½ of the International Convention for the Protection of Industrial Property signed at Washington June 2, 1911 the Belgian Government has

¹⁸ See *supra*, footnote 17.

made provision in its legislation for an action against firms or persons misusing the trade name of a foreign competitor or who have committed actions involving unfair competition.

However, it should be noted that this action for which provision is made in Belgian legislation has only a civil character and that as a consequence thereof injured persons or firms should themselves take the initiative in bringing such action. It is not the same insofar as concerns trade marks, as a penal action is provided in such cases in accordance with the law of April 1, 1879.

On the other hand, contrary to the opinion which the note of the Embassy of the United States of America appears to indicate, the facts invoked by the Symington Company against the Société Anonyme des Ateliers de Construction de Familleureux do not constitute a violation of the International Convention. The Symington Company may invoke the provisions of this Convention in order to demand their judicial application and it is for the company to take the initiative in citing the Société Anonyme des Ateliers de Construction de Familleureux before the Courts. The matter is thus one of private law.

From the foregoing considerations it results that the Ministry of Foreign Affairs has not, in this matter, any means of constraint and that it can only interpose its good offices in order to obtain eventually a friendly settlement.

The Ministry of Foreign Affairs has been careful to invite the serious attention of the Directorate of the Société Anonyme de Construction de Familleureux to the claim of the Symington Company and has moreover asked the company to inform it of the measures which it intends to take with a view to putting an end as soon as possible to the criticisms resulting from the attitude of the said company.

BULGARIA

DISINCLINATION OF THE UNITED STATES TO PARTICIPATE IN AGREEMENT REGARDING APPORTIONMENT OF BULGARIAN REPARATION PAYMENTS

474.00 R 29/116

The Greek Minister (Simopoulos) to the Secretary of State

[Translation]

No. 841

WASHINGTON, *May 21, 1928.*

The Minister of Greece presents his compliments to His Excellency, the Secretary of State, and has the honor, by direction of his Government, to lay the following before him:

As Your Excellency is aware, according to Article 23 of the Agreement of January 14, 1925, between the Allied and Associated Powers,¹ concerning apportionment under the Dawes Plan, which Article has to do with Bulgarian payments, the said payments are distributed, up to December 31, 1926, in the ratios specified by Article 2 of the Spa Protocol.² A new apportionment is contemplated after that date.

Pending such new apportionment, the amounts available have been deposited by the Reparation Commission in the National City Bank of New York, at the interest of 2½% per annum.

In the same bank there has been deposited an amount of \$31,500 derived from liquidated Bulgarian war matériel. At the suggestion of the economic offices of the Reparation Commission, the question has been raised of converting these available moneys into short-term, interest-bearing securities, such, for instance, as United States Treasury Certificates of Indebtedness.

The Government of the Republic has the honor to request of the Powers signatory to the Agreement referred to above, that steps be taken, either by calling a Conference, or by any other method judged to be proper, to effect a new apportionment of Bulgarian payments.

It reserves the right to request also that the share of Greece, set by the Spa Agreement at 12.7%, be increased on the strength of new factors which it will bring forward at the proper time and place, especially on account of the amounts awarded to it by the Arbitrator

¹ *Foreign Relations*, 1925, vol. II, p. 160.

² Signed July 16, 1920; *ibid.*, 1920, vol. II, pp. 406, 407.

appointed by Mr. Ador,³ or which were due to it under the head of damages during the pre-belligerent period from October 11, 1915 to June 27, 1917, in accordance with paragraph 4 of the Annex to Part IX, Section IV of the Treaty of Neuilly,⁴ and with the decision of The Hague Court, on September 12, 1924,⁵ bringing that category of claims within the aggregate reparations contemplated by Articles 121 and 122 of the Treaty of Neuilly.

474.00 R 29/116

The Secretary of State to the Greek Minister (Simopoulos)

The Secretary of State presents his compliments to the Minister of Greece and, in acknowledging the receipt of his note of May 21, 1928, communicating the request of the Greek Government that the Powers signatory to the agreement of January 14, 1925, regarding the distribution of the Dawes annuities, proceed to a new apportionment of Bulgarian payments, has the honor to inform him that the matter of the formal relationship of the United States Government to the proposed action is receiving the consideration of this Government. Inasmuch, however, as this Government does not participate in the distribution of Bulgarian reparation payments, it desires in no way to prejudice the consideration of the request of the Greek Government by the other Governments to which it has been addressed.

WASHINGTON, June 12, 1928.

474.00 R 29/122

The Ambassador in France (Herrick) to the Secretary of State

Reparation

PARIS, June 28, 1928.

[Received July 7.]

SIR: I have the honor to acknowledge the receipt of the Department's letter, dated June 12, 1928 (EA 474.00 R 29/116),^{5a} transmitting for my information a translation of a note, dated May 21, 1928, from the Greek Minister at Washington requesting that the Powers signatory to the Agreement of January 14, 1925, agree to a new division of Bulgarian Reparation payments, together with a copy of the Department's reply of June 12th.

The Department states that it will probably not desire to sign any agreement which may eventually be reached for the distribution of Bulgarian payments, and invites my comments in the matter.

³ Gustave Ador, President of the Swiss Confederation for 1919 and afterward president of the International Red Cross at Geneva.

⁴ Signed Nov. 27, 1919; text in S. Doc. 7, 67th Cong., 1st sess., p. 113.

⁵ *Collection of Judgments*, Publications of the Permanent Court of International Justice, Series A, No. 3, p. 9.

^{5a} Not printed.

As pointed out in the Department's letter under reference, it is clear that when we signed the Agreement of January 14, 1925, we undertook no commitment as to the obligations of other Governments, since commitments between the Allied Governments are specifically so described in the Agreement, and wherever we are concerned specific reference in the text of the Agreement is made to the United States. Further, as I pointed out in my letter of April 20, 1928,⁶ regarding the official notification to me by the Reparation Commission of its action in regard to the 10th Bulgarian Reparation payment, we are, in fact, not interested in the Bulgarian Reparation payments: we were not at war with Bulgaria, and any claim we might have had under the Wadsworth Agreement⁷ upon payments made by Bulgaria was waived under the January 14, 1925, Agreement.

In view of the foregoing, I am in entire accord with the Department's opinion that it is not desirable for us to sign any Agreement which may be reached for the distribution of Bulgarian payments.

I note that the Greek Government in its communication of May 21, 1928, reserves the right to request that the share of Greece, set by the Spa Agreement at 12.7%, be increased in view of certain considerations set forth in the note. The Greek share referred to seems clearly intended to mean that in non-German Reparations, and not the 0.4% share in German Reparations, fixed in paragraph A, Article 7, of the January 14, 1925, Agreement.

The Department will recall that in a letter, dated January 26, 1925, addressed to the Secretariat General of the Conference of Finance Ministers⁸ which resulted in the signature of the Agreement of January 14, 1925, by the representatives of the Belgian, French, British, Italian and Japanese Governments on the Conference's Committee of Experts (Annex 2280 bis, page 35), it was stated, as regards Article 7 of the Agreement, that the Reparation percentages attributed to Greece and Roumania on non-German Reparations would also apply, in conformity with Article 2 of the Spa Agreement, to any sums received on account of the so-called Liberation Bonds. It would seem clear, however, that any Agreement reached by the other Powers altering the Greek share in non-German Reparations could not have any effect upon our rights as concerns the Liberation Bonds.

I have [etc.]

For the Ambassador:

EDWIN C. WILSON

⁶ Not printed.

⁷ The Army Costs Agreement of May 25, 1923; *Foreign Relations*, 1923, vol. II, p. 180.

⁸ Not printed.

474.00 R 29/126 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, July 11, 1928—4 p. m.

[Received 5:25 p. m.]

187. Reparation 105.

1. Reference Department's letter June 12, 1928,⁹ and my reply June 28, regarding agreement to be reached for distribution Bulgarian reparation payments. Also my letter June 29⁹ concerning Commission's decision of June 23 as to postponement Bulgarian payments and recommendation that Greece be allotted certain sum out of blocked Bulgarian payments.

2. General Secretary has now circulated as matter of urgency protocol prepared by British, French and Italian representatives granting Greek Government on account of earthquake damages a special advance from the Bulgarian blocked payments equal to its reparation percentage fixed in Article 7 of the January 14, 1925, agreement.¹⁰ Meeting of representatives of signatories of January 14, 1925, agreement has been set for morning July 13 to discuss this protocol.

3. [Paraphrase.] May I suggest the Department authorize me to advise the General Secretary that, since the United States Government does not participate in reparation payments by Bulgaria, it does not feel called upon to sign a protocol drawn up following the proposed discussions. Early instructions would be appreciated. [End paraphrase.]

HERRICK

474.00 R 29/126 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, July 12, 1928—5 p. m.

211. Reparation 59. Reference your telegram 187, Reparation 105, July 11, 4 p. m. You are authorized to inform the Secretary General that, inasmuch as the United States Government does not participate in reparation payments by Bulgaria, it does not consider it desirable or necessary to sign any protocol which may allot such payments among the Governments concerned.

KELLOGG

⁹ Not printed.¹⁰ *Foreign Relations*, 1925, vol. II, p. 152.

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